REGIONAL PLANNING AND DEVELOPMENT SERIES

A CRITICAL REVIEW OF THE IMPLEMENTATION OF POLICIES AFFECTING ENVIRONMENTALLY SENSITIVE POLICY AREAS 1976 - 1981

THE REGIONAL MUNICIPALITY OF WATERLOO

DEPARTMENT of PLANNING and DEVELOPMENT

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A CRITICAL REVIEW OF THE IMPLEMENTATION OF POLICIES AFFECTING ENVIRONMENTALLY SENSITIVE POLICY AREAS REGIONAL MUNICIPALITY OF WATERLOO 1976 - 1981

Publication No. 7.

This report was prepared by Karen L. McCulloch, a Master's student in Geography at the University of Waterloo, hired by the Region of Waterloo during the summer of 1981 because of her familiarity with the policies for Environmentally Sensitive Policy Areas in the Regional Official Policies Plan. She undertook a critical review of the policies themselves and their implementation through development control applications since their approval by the Minister of Housing as part of the Regional Official Policies Plan in December 1976. This report contains her findings, conclusions and recommendations.

The policies designating Environmentally Sensitive Policy Areas in the Regional Official Policies Plan were the first municipal policies of their kind in Ontario. They also preceded any experience with The Environmental Assessment Act. Regional Planning and Development Department Staff have recognized a number of shortcomings and limitations in the policies and their application over the last five years. This report presents the *unedited* findings of Ms. McCulloch and will provide valuable input into the review of the policies for Environmentally Sensitive Policy Areas to be conducted during 1982.

I wish to thank those individuals and organizations who assisted in producing this valuable report.

Bill Thomson

Bill Thomson, M.A., M.C.I.P.
Commissioner
Department of Planning and Development
Regional Municipality of Waterloo

September, 1981

SUMMARY OF RECOMMENDATIONS

1. THAT A COPY OF EACH ACTIVITY RECORD FORM, COMPLETED FOR THIS STUDY, BE INSERTED IN THE CORRESPONDING ENVIRONMENTALLY SENSITIVE POLICY AREA FILE.

2. THAT ACTIVITY RECORDS CONTINUE TO BE FILLED OUT FOR ALL PROPOSALS THAT ARISE, AFFECTING ENVIRONMENTALLY SENSITIVE POLICY AREAS.

3. THAT A SECOND PHASE TO THIS STUDY, INVOLVING FIELD WORK, BE CONDUCTED DURING THE SPRING, SUMMER AND FALL FIELD SEASONS OF 1982.

4. THAT AERIAL PHOTOGRAPHS REFLECTING GENERAL ENVIRONMENTALLY SENSITIVE POLICY AREA BOUNDARIES AT A MORE DETAILED SCALE THAN MAP 4, BE GIVEN A RECOGNIZED STATUS.

5. THAT THE REGION CLARIFY THE SITUATIONS THAT CONSTITUTE CONTIGUOUS LANDS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS.

6. THE REGION CLARIFY WHETHER POLICY 13.31, OR ANY OTHER POLICY OF THE REGIONAL OFFICIAL POLICIES PLAN, REQUIRES AN ENVIRONMENTAL IMPACT STATEMENT TO BE CONDUCTED TO ASSESS POTENTIAL IMPACTS ON AN ENVIRONMENTALLY SENSITIVE POLICY AREA, WHEN A PROPOSAL IS MADE TO CHANGE THE LEGAL USE OF LAND CONTIGUOUS TO AN ENVIRONMENTALLY SENSITIVE POLICY AREA.

7. THAT THE REGION CONDUCT AN ENVIRONMENTAL ASSESSMENT OF THE POTENTIAL IMPACTS, AND POSSIBLE MEANS TO MITIGATE ANY IMPACTS, OF THE WIDENING OF HOMER WATSON BOULEVARD ON ENVIRONMENTALLY SENSITIVE POLICY AREA 29 AS SOON AS A FIELD SEASON PERMITS.

8. GUIDELINES ARE REQUIRED OUTLINING THE TYPES OF PROPOSALS AND CONDITIONS OF A PROPOSAL WHERE, IF AN ENVIRONMENTAL IMPACT STATEMENT IS NOT CONDUCTED, A WAIVER OF THE REQUIREMENT MUST BE PROCESSED AS AN ALTERNATIVE.

9. THE LEGAL CONDITIONS WHICH PERMIT THE REQUIREMENT FOR AN ENVIRONMENTAL IMPACT STATEMENT TO BE WAIVED SHOULD BE REVIEWED AND CLARIFIED.

10. THAT THE REQUIREMENTS FOR ENVIRONMENTAL IMPACT STATEMENTS BE REVIEWED AND REDEFINED.

11. A HANDBOOK SHOULD BE DEVELOPED TO AID PROJECT APPLICANTS AND CONSULTANTS IN THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS. IT SHOULD PARTICULARLY ENCOURAGE THE USE OF A STANDARDIZED FORMAT.

12. THAT THE REGIONAL MUNICIPALITY OF WATERLOO APPROACH THE GRAND RIVER CONSERVATION AUTHORITY TO RECOGNIZE ENVIRONMENTALLY SENSITIVE POLICY AREAS IN ITS OBJECTIVES FOR GRANTING PERMITS FOR FILL, CONSTRUCTION AND ALTERATION TO WATERWAYS.

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1. INTRODUCTION

1.1 Goal

The goal of this study was to determine how effectively the policies of the Regional Official Policies Plan (R.O.P.P.), pertaining to Environmentally Sensitive Policy Areas (E.S.P.A.s), have been implemented.

Three objectives were established:

1) To determine what aspects of the policies have been working well;

2) To determine the problems that have been encountered and whether or not they have been resolved;

3) To determine, at a general level, how the implementation of policies has affected the Environmentally Sensitive Policy Areas.

1.2 Reasons for the Study

Map 4 of the Regional Official Policies Plan designates sixty-nine sites as E.S.P.A.s (Map 1). These areas are primarily natural ecosystems such as wetlands, woodlands or landforms which are significant for their features, associations of features, or the ecological functions they perform (see criteria, Appendix A). The main body of Chapter thirteen of the R.O.P.P. sets out policies to help preserve these areas.

There is a two-fold reason why it is desirable at this time to evaluate how effectively the policies have been implemented. When they were developed, they were innovative on several counts:

1) It was not traditional for a municipality to assume responsibilities for natural areas;

2) It was not traditional to apply policies for natural areas to privately-owned lands. Provincial and federal government programs concerned themselves mainly with publically-owned land or with acquiring significant private lands.

3) Since municipally-identified E.S.P.A.s are often privately-owned, a new challenge was presented in dealing with multiple owners for each natural area rather than with a single public body.

4) The field of environmental impact assessment, which is a major concept of the Regional policies, was still in its infancy at the time.

The Region gained widespread recognition as a pioneer in the municipal environmental planning field and in June 1976, received the Federation of Ontario Naturalists' Conservation Award for its efforts to preserve E.S.P.A.s. At least two other municipalities were independently developing similar policies at the time and several more have since adopted programs to designate and establish policies for natural areas, based on the model of the Region of Waterloo. Since the Region of Waterloo, however, was the first municipality in Ontario to have the designations and associated policies passed by its Council and subsequently approved by the Province, it did not have examples of experience to draw upon. Therefore, a built-in element of uncertainty about how the program would work was inevitable.

The second part of the two-fold reason for the study is that the policies have now had a sufficient length of time in operation to fairly evaluate how they have worked. They were formulated between the fall of 1974 and December 1976 when the Official Policies Plan was approved by the Minister of Housing. The formal implementation process began in late 1975 when Regional Council accepted the essence of the policies as they are now. Changes made throughout 1976, prior to final approval, were mainly clarifications in wording and did not change the essence of how the policies should be implemented.

A NEW CONCEPT OF POLICIES HAS BEEN IN OPERATION FOR OVER FIVE YEARS NOW. SINCE THE POLICIES WERE DEVELOPED WITHOUT EXAMPLES OF EXPERIENCE TO LOOK TO, IT IS DESIRABLE TO DETERMINE HOW EFFECTIVE THEY HAVE BEEN FROM BOTH AN OPERATIONAL PERSPECTIVE AND AN ENVIRONMENTAL VIEWPOINT.

2. METHOD AND CONSTRAINTS

2.1 General

There were five main tasks to complete the study:

1. Become familiar with the policies and their intents, in the R.O.P.P.

2. Identify the proposals that have occurred that the policies for E.S.P.A.s apply to, or that otherwise have the potential to impact upon E.S.P.A.s.

3. Review how the policies have been interpreted and review the procedures of implementation in the above proposals, drawing generalization about the effective and problem areas.

4. Determine what the results of the implementation of policies have been in terms of the types of decisions made.

5. Prepare a report on the conclusions and any recommendations arising from tasks one to four.

Tasks one to three were designed to satisfy the first two objectives of the study - to determine the effective and problem areas in implementation of the policies.

Task four satisfied the third objective of the study - to determine, at a general level, how the implementation of policies has affected the E.S.P.A.s.

The study was carried out over a four month period, from mid-May to mid-September, 1981.

It was conducted by a summer student, Karen L. McCulloch hired specifically to undertake the project. Research for her thesis had traced the evolution of E.S.P.A. policies in the Region of Waterloo through the various successive drafts, identifying influences that had molded the policies at each stage of formulation. It, further, had analyzed the policies for potential problem areas in interpretation and implementation.[1]

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[1] McCulloch, Karen L. 1982 (forthcoming). "The Evolution and Implementation of Policies for Environmentally Sensitive Areas in the Regional Municipality of Waterloo, Ontario." Master's Thesis, Department of Geography, University of Waterloo.

2.2 Identification of Proposals

With task one completed before the study began, the study was able to begin with task two in mid-May. As many proposals as possible were identified, that had been made for lands in or contiguous to E.S.P.A.s. The types of applications the study intended to identify were those that the policies of the R.O.P.P. pertained to:

Official Plan Amendments,
Zoning By-law Amendments,
Subdivisions,
Land Severances,
Variances, and
Licences for sand and gravel pits.

Fill permits applied for from the Grand River Conservation Authority (G.R.C.A.) were added to the above list since the Region had attempted to establish a liaison with the G.R.C.A.; to have input into the decisions for granting permits where they could affect E.S.P.A.s.

Some Implementation Plans were also examined. They have the potential to impact upon E.S.P.A.s and it became apparent in task two, that the Region was sometimes applying policies for E.S.P.A.s to proposals for Implementation Plans.

January 1976 to July 1981 was set as the implementation period to be reviewed. It was considered fair to examine the implementation process and effects on sensitive areas only for the time after November 1975, when the Environmental Policy Chapter of the R.O.P.P. had been accepted by Regional Council.

Beginning with the review of applications, January 1976 eliminated one month of the potential review period, during which little to no activity probably occurred. On the other hand, it facilitated sorting out the proposals to be reviewed since file numbers usually indicated the year in which an application was submitted but not the month. July 1981, mid-way through the study, was considered a feasible cut-off date to accommodate proceeding with the project tasks.

Separate files kept for each designated E.S.P.A. were originally expected to yield most information to identify the activities that had occurred in and contiguous to the areas. Unfortunately, information had not been filed in a consistent manner over the past five years. No standard guidelines had been followed concerning information to be included in the files. There appeared to be no one particular in the office who had assumed responsibility for their maintenance. They had been particularly neglected over the past two years. While still a source of much information, the E.S.P.A. files were of less use than anticipated.

Fortunately, supplementary means were available to access most of the information required. A combination of searching indexes to files, maps of various types of development applications, questioning office staff, and following up references from one file to another, allowed the identification of all, or nearly all, of the relevant proposals for official plan amendments, zoning by-law amendments, subdivisions, and licences for aggregate extraction.

Maps of each of the above types of proposals for land use change are given in section 3.1 of the report to portray the extent to which each have had the potential to affect E.S.P.A.s.

Means to identify all relevant land severances, variances and fill permits were less readily accessible. The Development Division maps land severances, but the scale was not precise enough to show exact proximity of severances to E.S.P.A.s. Files in the Regional Clerk's office provided exact locations and could identify whether the severance was a type, involving new buildings or structures, that policies for E.S.P.A.s pertained to. Unfortunately, time constraints prevented checking the files for every mapped severance application that appeared to be potentially in or contiguous to an E.S.P.A. Applications for variances are handled by the Committees of Adjustment at the area municipal level. Regional information on variances consists only of comments made on the recent applications with regional concerns. Again, time priorities prevented trips to each area municipal office to sort out all variance applications that policies for E.S.P.A.s may have been applicable to. A complete identification of all applications for fill permits

also proved impossible from available Regional Office files because a Regional liaison with the G.R.C.A. had not been consistent in this respect. The need to review implementation plans only came to light during the study. An attempt was not made to backtrack in the study to ensure that all implementation plans that encompassed E.S.P.A.s were identified. Since information on the number of the above types of proposals could not be presented in a complete manner, maps for these types of activities, proposed in and contiguous to E.S.P.A.s, have not been included with the others in section three.

Despite the above constraints, the office files that were available and could be checked in the time available, references in other types of application files, and information from office technicians and planners, suggested a number of cases of severance, variance, and fill permit applications, and proposals for implementation plans, for the review purposes of tasks three and four.

2.3 Analysis

The volume of activities identified in task two made it essential to select case studies to identify how the policies had been interpreted and applied.

Cases for detailed review were selected to ensure that every type of land use proposal was represented. In addition, staff members of the Planning and Development Department identified a number of cases for review that they felt would illustrate particular problem areas.

A number of anomalies became apparent in the way policies for E.S.P.A.s had been interpreted and applied that necessitated reviewing a further number of cases, at least at a surficial level, to ensure accurate generalizations.

In section four of this report, several development proposals are referred to, by E.S.P.A. number and the name or Regional file number of the proposal (i.e. #25: 30T-79003), as examples which illustrate points under discussion. The numbers refer the reader to Activity Record forms in Appendix B.

The forms were developed and used to summarize pertinent information about each proposal. The forms include cross-reference numbers to the appropriate Regional files on a proposal, dates of any involvement of the Ecological and Environmental Advisory Committee to refer one to appropriate minutes of meetings, a legal and, if possible, directional description of the location of a proposal in relation to the E.S.P.A., whether or not an Environmental Impact Statement (E.I.S.) was prepared, and leaves space for a discussion of the purpose of the proposal, the environmental issues, and the outcome. Under each respective E.S.P.A., the forms are organized, as closely as possible, to the chronological order in which the proposals occurred. Where proposals were related (i.e. zone change to permit a plan of subdivision), they were often discussed on the same Activity Record form. Additional pages of discussion are included with the forms for the case studies reviewed in greatest depth.

The E.S.P.A. Activity Record form was designed with a dual purpose in mind. In addition to organizing data as an Appendix to this report, the forms can be used to maintain up-dated E.S.P.A. files.

IT IS RECOMMENDED THAT A COPY OF EACH ACTIVITY RECORD FORM, COMPLETED FOR THIS STUDY, BE INSERTED IN THE CORRESPONDING E.S.P.A. FILE.

IT IS FURTHER RECOMMENDED THAT ACTIVITY RECORDS CONTINUE TO BE FILLED OUT FOR ALL PROPOSALS THAT ARISE, AFFECTING E.S.P.A.s. The forms can be printed on a heavy weight, durable paper. When a file for a relevant proposal is opened, an Activity Record form can be inserted in the front and completed as the information becomes available. Prior to closing the file, or upon it reaching an inactive status, the summary discussion section can be completed and the Activity Record form transferred to the appropriate E.S.P.A. file. The procedure will maintain information and a cross-reference system on the activities occurring in and around E.S.P.A.s to maximize the usefulness of the files. It will avoid the need to duplicate copies of applications, reports, maps, correspondence, and minutes of meetings for the E.S.P.A. files. It also ASSIGNS RESPONSIBILITY for the E.S.P.A. file to the development technician or planner involved with a proposal, to ensure that information gets filed.

In general, Planning and Development Department files on all types of project applications are not set up for the purpose of evaluative study and so all information that may have been useful for the analysis in tasks three and four was not available. Although all actions of corresponcence and internal reports were usually included in the files, other information that may have suggested how or why policies were applied in certain ways was not. For instance, issues discussed at meetings with area municipal staff, and reasons for decisions, were often not documented. Most frustrating, final outcomes or follow-ups of proposals were not always recorded at the Region (i.e. conditions on pit licences, reasons for Ontario Municipal Board decisions which could have indicated the degree to which concerns for the E.S.P.A. were a factor).

Another, not unusual, problem was that people's memories cannot be relied upon for very long to accurately recall events that happened and why. Complicating the problem were staff changes that meant that some people who had been involved in particular proposals and decisions were no longer available to question.

Nevertheless, readily available information was sufficient to determine the general procedures used in implementing policies for E.S.P.A.s, for each type of land use proposal. It allowed a number of conclusions to be drawn about the effective and problem areas in the implementation of the policies, particularly from an operation viewpoint. These are discussed in section four.

Section four describes the types of decisions made about E.S.P.A.s, when proposals for various land use activities have arisen in or contiguous to them. It cannot adequately portray, from an environmental viewpoint, how the decisions made, or not made, have physically impacted upon the areas. IT IS RECOMMENDED THAT A SECOND PHASE TO THIS STUDY, INVOLVING FIELD WORK, BE CONDUCTED DURING THE SPRING, SUMMER AND FALL FIELD SEASONS OF 1982. Field study is essential to determine how effectively the implementation of policies has safeguarded the environmental integrity of E.S.P.A.s. Such information, in addition to that provided in this report, is fundamental to the Region determining where and what policy revisions, or revisions to the procedures in implementing existing policies, are required to help achieve the environmental goals of the Region.

3. PROPOSED ACTIVITIES IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS

3.1 Mapped Activities

This section presents a series of maps. They provide a general conception of the number of proposals for certain types of changes in the legal use of land that have been made in and contiguous to E.S.P.A.s from January 1976 to July 1981, inclusive. As previously mentioned, only the types of proposals for which it was feasible to identify all, or nearly all, of the applications have been mapped. Map 1 is a composite of Maps 2 to 5 and shows and names all E.S.P.A.s.

Maps 2, 3, 4 and 5, respectively, show the number of applicable applications for official plan amendments, zoning by-law amendments, subdivisions, and licences for extractive activities. Filled in symbols indicate proposals which have been approved, as opposed to the half-filled symbols which represent proposals which have been abandoned, refused, or have not yet been sanctioned. An index following each map identifies each application by name and, or by, Regional file number.

Map 2: Official Plan Amendments

Eight proposals for official plan amendments and one proposal for an official plan modification (E.S.P.A. 24) were identified. All were for purposes conducive to development in or contiguous to an E.S.P.A.

Map 3: Zoning By-law Amendments

Seventeen proposals for changes to zoning by-laws were identified. Over one half were made in conjunction with subdivision applications. The rest were for a variety of reasons that would permit development, such as non-subdivision housing, industry, a gravel pit, and institutional expansion.

Map 4: Subdivisions

Twenty-four proposals for subdivisions were identified. Nine infringed to varying extents on E.S.P.A.s and fifteen were on properties contiguous to E.S.P.A.s. The majority proposed mainly residential uses, but at least three involved industrial developments (E.S.P.A.s 27, 29, 41).

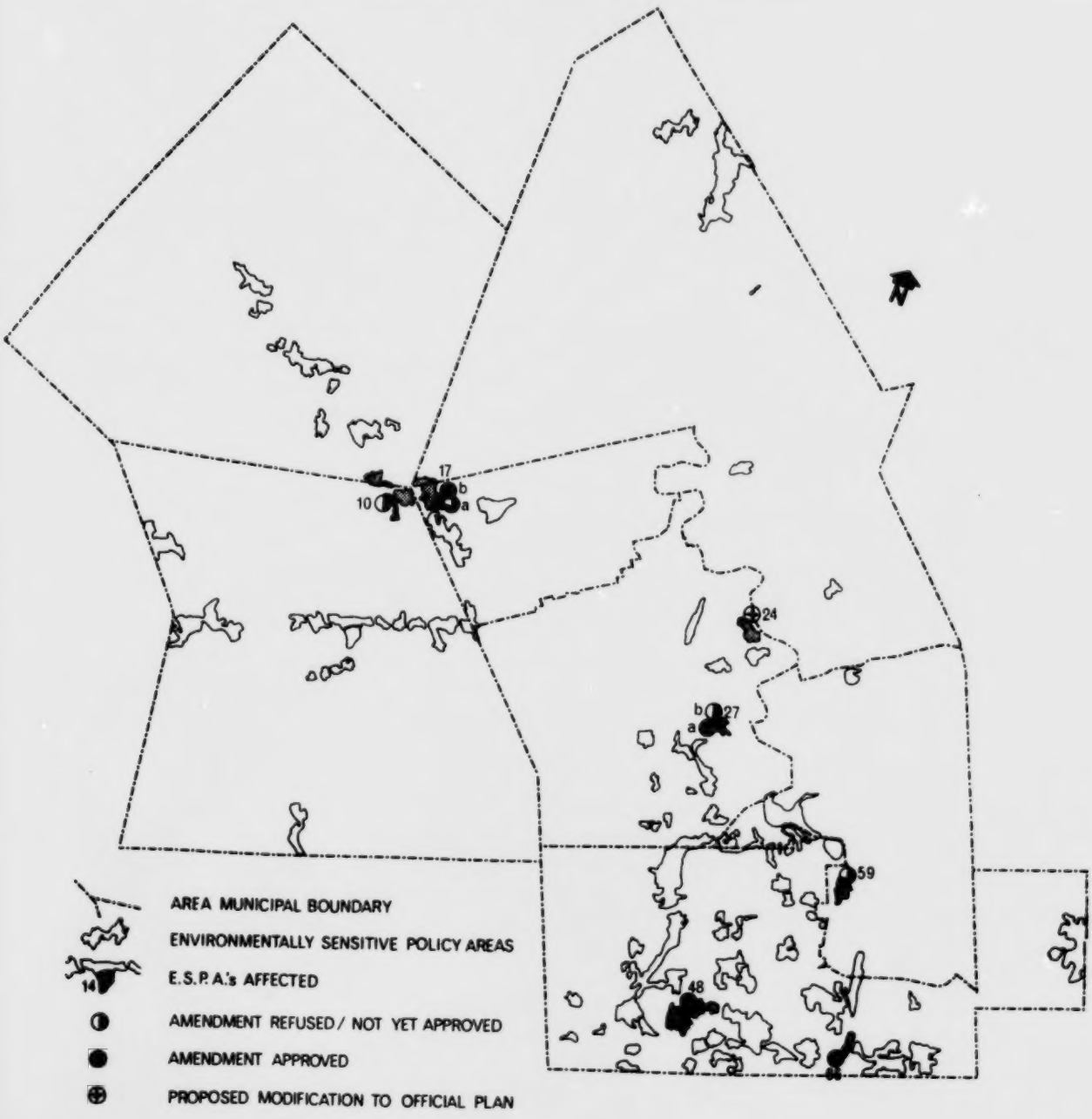
Map 5: Licences for Aggregate Extraction

Nine applications to the Ministry of Natural Resources were identified for licences to open, operate or establish a gravel pit, where the licenced area would either partly overlap or abut an E.S.P.A..

MAP Nº 2

APPLICATIONS FOR OFFICIAL PLAN AMENDMENTS IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS

JANUARY 1976 - JULY 1981
REGIONAL MUNICIPALITY OF WATERLOO



INDEX TO MAP NO. 2

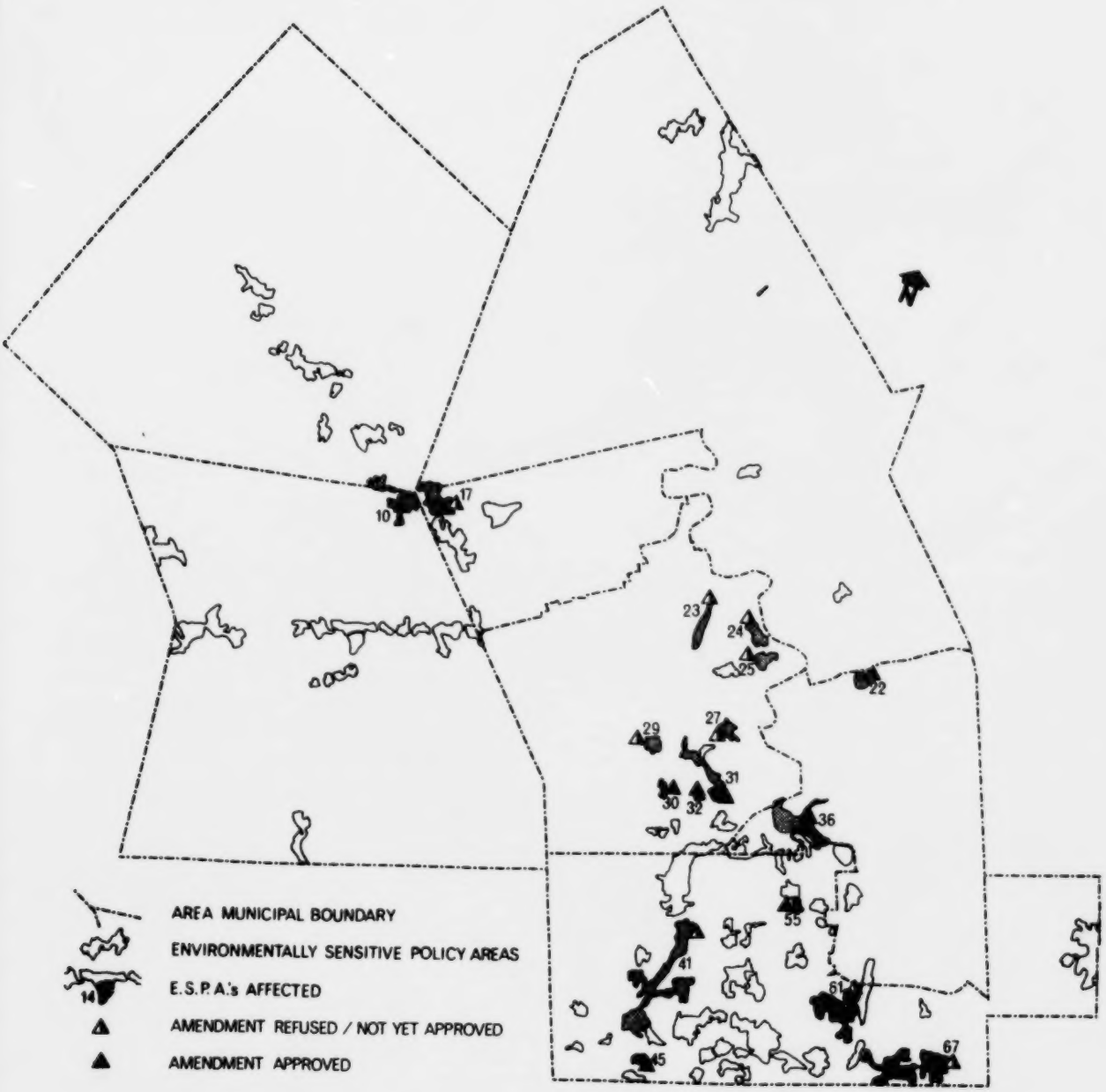
APPLICATIONS FOR OFFICIAL PLAN AMENDMENTS, IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS JANUARY 1976 - JULY 1981

E.S.P.A.		AMENDMENT	PURPOSE
10		Wilmot, 1981 Preliminary Proposal	Approve forthcoming Settlement Plan
17	a.	Waterloo, 1976 Preliminary Proposal	Permit townhouse development
17	b.	Waterloo, O.P.A. #28	To Designate Erbsville as Residential Community
24		Kitchener O.P. Referral No. 1 to O.M.B.	Major Open Space to Residential
27	a.	Kitchener, O.P.A. #3	Permit development of Industrial Site A
27	b.	Kitchener, 1981 Preliminary Proposal	Industrial Secondary Plan
48		North Dumfries, O.P.A. #3	To correct location error on map of pit and quarry designation
59		Cambridge, O.P.A. #6	Recreational Area and Facilities to Residential for Subdivision 30T-77037
66		North Dumfries, O.P.A. #7	More accurately define hazard lands; Bring existing Settlement Area into conformance with R.O.P.P. and Twp. O.P.; Approve Settlement Plan.

MAP Nº 3

APPLICATIONS FOR ZONING BY-LAW AMENDMENTS IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS

JANUARY 1976 ~ JULY 1981
REGIONAL MUNICIPALITY OF WATERLOO



INDEX TO MAP NO. 3

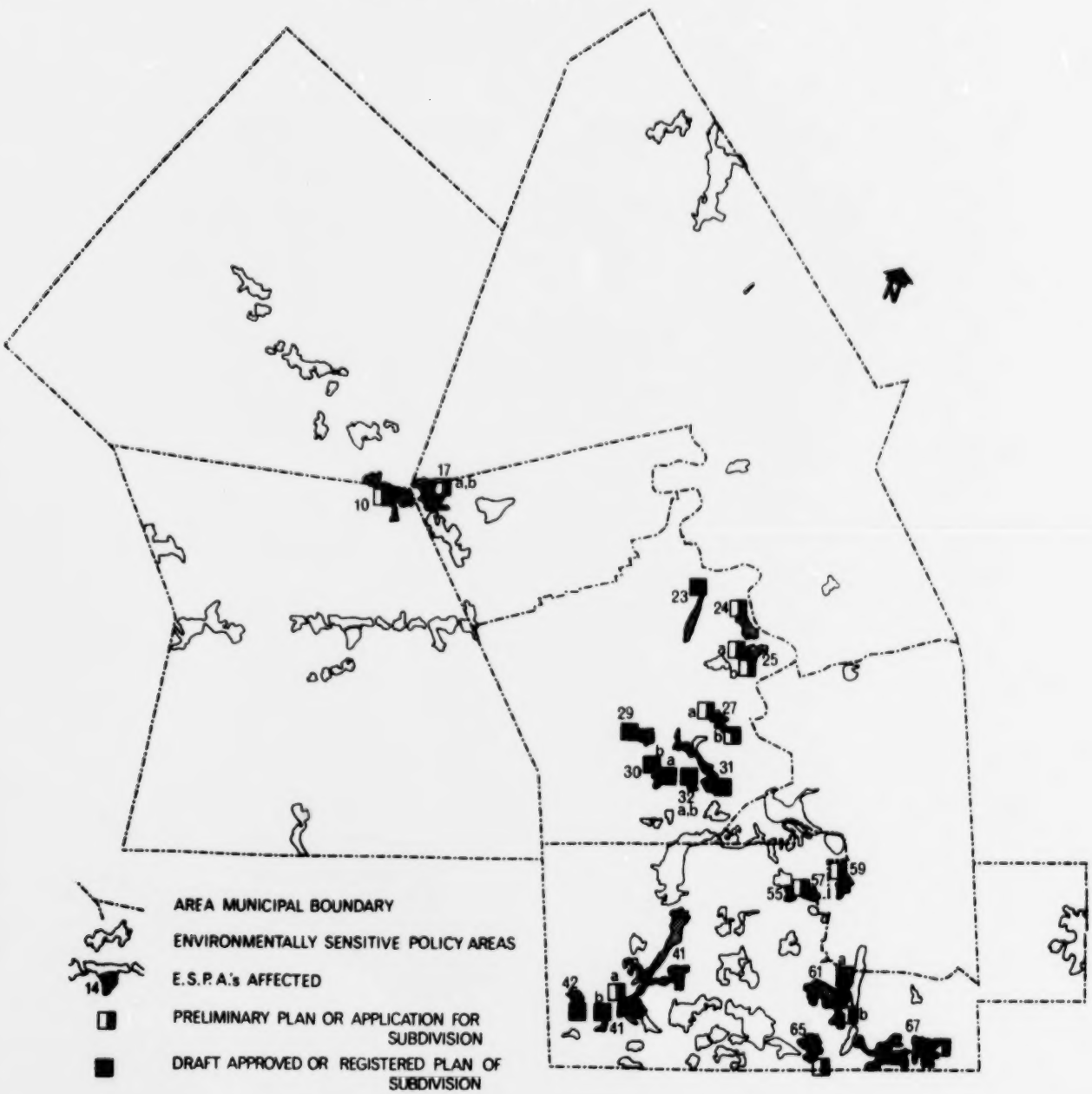
APPLICATIONS FOR ZONING BY-LAW AMENDMENTS, IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS JANUARY 1976 - JULY 1981

E.S.P.A.	APPLICATION OR BY-LAW NO.	APPLICANT AND PURPOSE
10	Z-19-77	A.F.M. Wilson: Permit lot to be created without public road frontage which, in turn, would permit conversion of cottage to permanent residence.
17	Z-76-3	Sugarbush Holdings Ltd.: Permit townhouse development.
22	By-Law 1312 (1978)	293486 Ontario Ltd. (Cambridge Country Manor): To make legal non-conforming use conform, to facilitate obtaining mortgage and future expansion plans.
23	By-Law 80-42	John Schropp Builders Ltd.: Subdivision 30T-79027.
24	28/80/H	Ar-jel Developments Ltd. and Hightree Investments Ltd.: Subdivision 30T-79006.
25	27/80/E	Parkwood Developments Ltd.: Subdivision 30T-79003.
27	By-law 80-157	Major Holdings & Developments Ltd.: Permit industrial development of Site A.
30	By-law 78-57	Major Holdings & Developments Ltd.: Pioneer Park Subdivision 30T-76044.
31	By-Law 79-34	Hurox Holdings: Subdivision 30T-76037.
32	59/80/0	Major Holdings & Developments Ltd.: Old Carriage Drive., Subdivision 30T-80028.
36	By-Law 1079 (1977)	John Schropp Builders Ltd.: Construct 3 houses.
41	By-Law 548-81 (subsequently 567-81)	Galliher and Rumney: Permit gravel pit.
45	By-Law 348-77	Permit Abbatoir.
55	By-Law 237-76	Increase permitted uses within gravel pit.
61	By-Law 474-80	Drs. MacKinnon and Wiegand: Subdivision 30T-80003.
67	(Not yet received from Township)	J. Hessler: Subdivision 30T-81013.

MAP Nº 4

APPLICATIONS FOR SUBDIVISIONS IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS

JANUARY 1976 ~ JULY 1981
REGIONAL MUNICIPALITY OF WATERLOO



INDEX TO MAP NO. 4

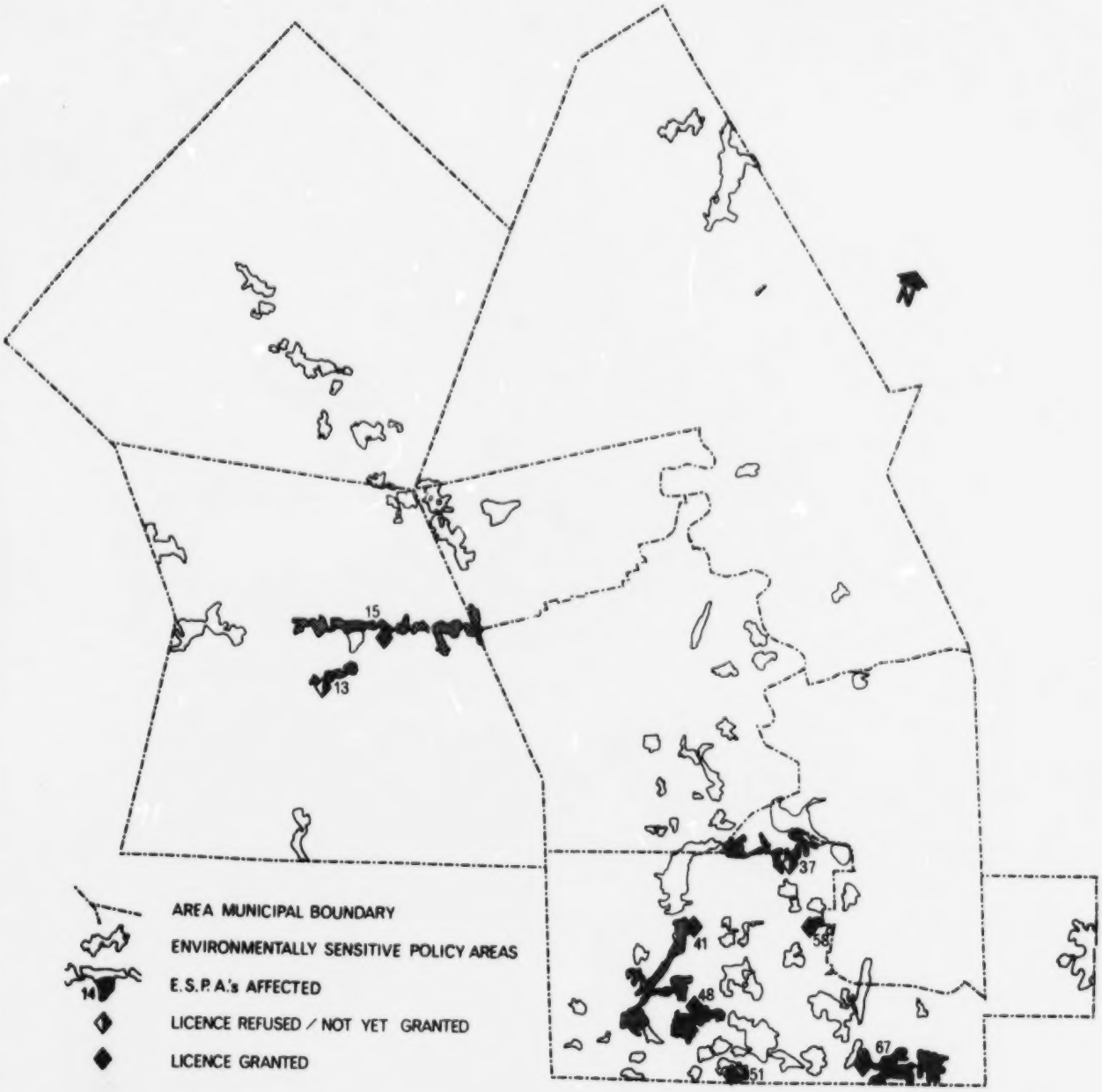
APPLICATIONS FOR SUBDIVISIONS IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS JANUARY 1976 - JULY 1981

E.S.P.A.	APPLICATION NO.	APPLICANT OR PROJECT
10	1976 Preliminary Plan	Albert F.M. Wilson, residential subdivision
17	a. 1976 Preliminary Plan	Sugarbush Holdings Ltd., Laurel Woods Townhouse Development.
17	b. 30T-80019	E. Schweigert Estates, Mapleview
23	30T-79027	John Schropp Builders Limited
24	30T-79006	Ar-jel Developments Ltd. and Hightree Investments
25	a. 30T-79003	Parkwood Developments Ltd.
25	b. 30T-80022	Tepro Holdings Ltd.
27	a. 1978 Preliminary Plan	Freure Homes Ltd., Hidden Valley, residential subdivision
27	b. 1981 Preliminary Plan	Major Holdings & Developments Ltd., Hidden Valley Industrial Subdivision
29	30T-79025	Paul Tuerr Construction Ltd. & Community Expansion Inc.: Trillium Industrial Park extension 30T-79025.
30	a. 30T-76044, R.P. 1455	Major Holdings & Developments Ltd., Pioneer Park
30	b. 30T-79017, R.P. 1486	Major Holdings & Developments Ltd., Scherer Pl. (Renamed Black Walnut Pl.)
31	30T-76037, R.P. 1487	Hurox Holdings
32	a. 30T-76011, R.P. 1424	Major Holdings & Developments Ltd., Old Carriage Dr., Pioneer Park
32	b. 30T-80028, R.P. 1513	Major Holdings & Developments Ltd., Old Carriage Dr., Pioneer Park (Re-subdivision of R.P. 1424)
41	a. Original Plan for 30T-77012	Baycrest Consolidated Holdings Ltd., Melair Industrial Development
41	b. 30T-80011	K. Ostovar, residential subdivision
42	30T-80004	T.M. Management Ltd., residential subdivision.
55/57	30T-76019	Lloyd Brown, residential subdivision
59	30T-77037	Freure Homes Ltd., Grandview Hills
61	a. 30T-79032	Grandore Holdings Ltd.
61	b. 30T-80003	MacKinnon and Weigand
65	30T-81020	Alex Mills Development Ltd.
67	30T-81013	J. Hessler

MAP Nº 5

APPLICATIONS FOR LICENCES TO OPEN, OPERATE OR ESTABLISH A PIT IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS

JANUARY 1976 - JULY 1981
REGIONAL MUNICIPALITY OF WATERLOO



INDEX TO MAP NO. 5

APPLICATIONS FOR LICENCES TO OPEN, OPERATE OR ESTABLISH A PIT, IN AND CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS JANUARY 1976 - JULY 1981

E.S.P.A.	YEAR OF APPLICATION	APPLICANT
13	1978	Fred Hopper
15	1979	Durance and Millar Farms Ltd.
37	1981	Forwell Ltd.
41	1981	Galliher and Rumney
48	1978	Helen Sherk (subsequently purchased by 385415 Ontario Ltd.)
51	1978	341595 Ontario Limited
58	1977	K-W Blair Readymix (1973) Ltd.
67	1978	a. Waynco Ltd.
67	1978	b. Waynco Ltd.

3.2 Unmapped Activities

There have been many proposals and approvals for implementation plans, land severances, variances, fill permits, and government projects that are not shown because information on the total number of applications and projects was incomplete. The numbers that were identified are discussed below. In addition, many other activities have likely occurred that did not fall within the jurisdiction of Regional policies for E.S.P.A.s but, nevertheless, may have impacted upon the areas. This matter is further discussed in section four of the report.

Implementation Plans

Examples of implementation plans that have encompassed all or part of, or are contiguous to, one or more E.S.P.A.s include the following:

E.S.P.A.	IMPLEMENTATION PLAN
17	Erbsville Community Plan, Waterloo
23	Block Plan 66, Kitchener
24	Grand River North Community Plan, Kitchener
25	Grand River South Community Plan, Kitchener
27	Hidden Valley Industrial Secondary Plan, Kitchener
30, 33, 34	Doon South Community Plan, Kitchener
31, 35	Lower Doon Community Plan

Land Severances

The Development Division of the Regional Planning and Development Department plots applications for land severances as dots on maps at a scale of 1:63,360. Separate maps exist for each year. By comparing the maps from 1976 to 1981 with the R.O.P.P. map of E.S.P.A.s (1:200,000), thirty-one land severance

applications were identified as in or near an E.S.P.A. They have been listed in Appendix C.

The schematic plotting made it difficult to tell if an application was actually in or abutting an E.S.P.A. A few would probably be eliminated from the list through a precise check of locations. Other applications in the list may not be categorized as a change in the legal use of land, involving the addition of new buildings or structures, and therefore, would not be considered subject to the policies for E.S.P.A.s in the R.O.P.P. (Policy 13:31).

Variances

Seven applications for variances were identified as in or contiguous to an E.S.P.A. They are listed in Appendix D. At least five involved new buildings or structures (i.e. additions to buildings). The other two remain to be checked. However, the writer is uncertain if the Region would categorize them all as a change in the legal use of land, which appears necessary for an application for variance to be subject to the policies for E.S.P.A.s (Policy 13:31).

Since the methods to identify relevant applications for variances were not comprehensive, there is a likelihood that there have been other applications that were, or should have been, subject to the policies for E.S.P.A.s.

Permits for Fill, Construction and Alterations to Waterways

A minimum of twenty-eight applications for permits, on properties in or contiguous to an E.S.P.A., were submitted to the G.R.C.A. between January 1976 and July 1981. They are listed in Appendix E. Since files for portions of that time period were not readily available for review, it is suspected that there were several more applications for permits made, but not identified by this study.

Public Projects

Policy 13:23 of the R.O.P.P. applies to new Regional roads, trunk water lines, sewer lines, landfill sites, minor re-alignments and widenings of existing roads, and those services necessary to implement existing legal and approved changes in the legal use of land where they affect sensitive areas. Further, it sets out the Regional position regarding projects by senior governments or their agencies, such as expressways and trunk roads,

hydro transmission lines, long distance Bell Telephone cables, trunk gas and oil lines within E.S.P.A.s.

A method was not found to comprehensively identify all such projects. The few that did come to light are listed below:

AREA MUNICIPAL AND REGIONAL PROJECTS

E.S.P.A.	Project
24	Ottawa Street extension eastward
25	Lackner Blvd.
27	River Road extension
29	Homer Watson Blvd., realignment for extension
38	George Street extension (proximity to E.S.P.A. undetermined by this study)
39	Regional Road #46, ditching work.

PROJECTS BY PROVINCIAL AND FEDERAL GOVERNMENTS OR AGENCIES

E.S.P.A.	Project
15	Proposed alterations to Ontario Hydro towers, May 1979 - June 1980
25	Proposed re-location of power line abutting E.S.P.A., 1978
60	Proposed alterations to Ontario Hydro towers, Detweiler to Middleport Hydro-line

3.3 Summary

Approximately seventy-five percent of the E.S.P.A.s have been the subject of one or more proposals for a legal land use change within or immediately next to them. Activities have most often involved the City of Kitchener or Township of North Dumfries. Those two area municipalities bear the heaviest distribution of E.S.P.A.s. No proposals were revealed for legal land use changes pertaining to E.S.P.A.s, in the rural Townships of Wellesley and Woolwich.

4. INTERPRETATION AND IMPLEMENTATION OF POLICIES

4.1 Introduction

The main thrust of protective policies for E.S.P.A.s relates to development applications. Yet staff in the Regional Department of Planning and Development, who process development applications, have found the policies for E.S.P.A.s among the most difficult, in the Regional Official Policies Plan, to interpret and decide when and how to implement.

The majority of staff was not involved in the formulation of the policies so do not have the benefit of understanding the intents, process, and compromises that resulted in the present wording. To complicate matters, the policies are fraught with repetition, ambiguities, and do not explain the procedures for implementation in a logical order. The problems have led to inconsistencies in interpretations and applications.

A full implementation of policies has been limited by the lack of Regional staff expertise in the environmental and natural resource field. Regional policies provide for some expertise from an Ecological and Environmental Advisory Committee (E.E.A.C.), but the Committee itself has had numerous problems in carrying out its mandate. Since the Planning and Development Department is preparing a separate report on the functioning of E.E.A.C., the operation of the Committee is discussed only briefly in the present report, and only in relation to the policies for E.S.P.A.s.

The following sections outline the policies, and discuss how they have been interpreted and implemented. Many cases illustrate where and how the application of policies has been smoothly incorporated into the Plans Approval Process. The discussion also explains where and why varying interpretations of the policies have occurred.

4.2 Summary of Policies and Procedures for Implementation

Policies and statements pertaining to E.S.P.A.s are distributed through the Regional Official Policies Plan but are primarily concentrated in Chapter 13, "Environmental Policy". They are summarized below in an order as close as possible to the procedures they establish for protecting E.S.P.A.s from the encroachment of urban uses. Digits prior to a decimal mark refer to the

chapter number in the R.O.P.P.. Those after a decimal mark refer to either a policy or page number in the chapter.

Policy 13.15 recognizes that legal land uses within and contiguous to E.S.P.A.s may continue. Whenever a change in the legal use of land and buildings is proposed, Policy 13.31 requires an environmental assessment and analysis for the preparation of an Environmental Impact Statement. [1] Alternatively, Policy 13.31 provides for the Area Municipal Council, in co-operation with Regional Council, to waive the requirement for an E.I.S. where it is determined that the latter is not warranted.

Assuming an Environmental Impact Statement (E.I.S.) is determined to be warranted, Policy 13.31 sets out requirements for its preparation. A developer is also permitted to seek information from the Ecological and Environmental Advisory Committee (E.E.A.C.) about what type of assessment should be made on a specific project. This was established when membership, terms of reference, and operational procedures for the E.E.A.C. were clarified by Regional Council approval on July 21, 1977.

Policy 13.32 requires that, before final approval is given to a change in the legal use of land, environmental impact analysis studies and an E.I.S. must be reviewed by E.E.A.C., who will make a recommendation to the Regional Committee of Planning and Development.[2] The operational procedures approved by Regional Council in 1977 require such studies to be referred to E.E.A.C. by the Regional Planning and Development Committee.

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1 This applies to changing the legal use of land and buildings through official plan amendments and zoning by-law amendments. It also applies to changing the legal use of land and buildings through the addition of new buildings or structures by land severances, subdivision applications or variances. The requirement for an E.I.S. does not specifically apply to proposed changes through any other means, such as implementation plans.

2 Note, inconsistently, the reference is only to a change in the legal use of land, not to land and buildings as in Policy 13.31.

As to what decisions are to be made, the preamble to 'Land Utilization Policy: Protecting Natural Resources' sets out an objective to protect recognized environmentally sensitive areas from the ravages of construction (p. 6.1). Page 6.2 clarifies the objective, that total preservation will be attempted only in the areas of highest sensitivity. Lower sensitive E.S.P.A.s can be considered for carefully executed urban intrusions. However, no guidelines have been developed for objective determination of the sensitivity level of an E.S.P.A., and Chapter 13 makes no reference to distinguishing between higher and lower sensitive areas. According to Policy 13.17, when an E.I.S. demonstrates that a change in the legal use of land will not have a serious impact on the E.S.P.A., the Region will permit the change. Amendments may be made to Area Municipal Official plans and zoning by-laws, if necessary, with no need to amend the Regional Official Policies Plan. Policy 13.16 addresses the situation where an E.I.S. demonstrates that the change in legal use of land would have a serious impact on the natural eco-systems. [1] In such a circumstance, alternatives must be explored. This is also required by Policy 6.4. Both the preamble to Chapter 13 (p. 13.2) and Policy 13.18 set out the process and possible alternatives for Area Municipal and Regional negotiations to preserve an E.S.P.A.. Elsewhere in the Plan, E.S.P.A.s are stated as priorities for land use, ahead of agriculture, sand and gravel and extractive uses, new settlement, and other rural non-farm related uses when conflicts for the use of land arise (p. 3.2; Policy 6.3(1); Policy 7.1(5)). The Region is to ensure that the use of land for recreational purposes does not conflict with policies for the protection of environmentally sensitive areas (p. 10.2, Principle 6.4). However, if negotiations fail to provide a means to preserve a particular E.S.P.A., then Policies 13.16 and 13.18 and the preamble to Chapter 13 provide that an amendment to the Regional Official Policies Plan will be processed to delete, as a designated area, the whole or that part of the E.S.P.A. affected.

Policies for public projects, within E.S.P.A.s, by Area Municipalities, Regional government, and senior govern-

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1 Note again, that the references in Policies 13.16 and 13.17 apply to changes in the legal use of land, not to land and buildings as in Policy 13.31.

ment agencies, are addressed in Policy 13.23. Policies 16.21 and 16.26 pertain, in general, to major projects of senior government agencies, so would also have a bearing where the projects involve E.S.P.A.s. The latter two appear repetitious. Policy 16.21 requires an E.I.S., including views of affected citizens, prior to approval for construction of any major hydro-electric power lines, oil lines, gas lines, lines conveying other materials, inter-regional and/or inter-provincial communication lines. Policy 16.26 requires an environmental impact analysis and citizen involvement where such developments will have a major social and environmental impact but acknowledges that standards and decisions in those instances are the responsibility of Area Municipal Councils; with Regional input as required. It is questionable whether a Regional Official Policies Plan has the legal jurisdiction to require environmental studies by senior government agencies. Policy 13.23 was worded to state only that the Region would strive diligently to gain the full co-operation of senior agencies to not expand, or develop new, public works projects within E.S.P.A.s. Such projects include expressways and trunk roads in addition to the type of public projects mentioned above. New Regional roads, trunk water lines, sewer lines, and landfill sites are specifically prohibited within, over and/or under E.S.P.A.s. Minor re-alignments and widenings of existing provincial, regional, and area municipal roads are permitted after E.I.S.s indicate that any damage to an E.S.P.A. will be of a minor nature and acceptable in the opinion of Regional Council. The same requirement applies, with obscure meaning, to 'those services necessary to implement existing legal and approved changes in the legal use of land where they affect sensitive areas'. Public work projects approved prior to approval of the Regional Official Policies Plan by Regional Council are not subject to special policies for E.S.P.A.s (Policy 13.23). No policy addresses new Area Municipal public projects that may affect E.S.P.A.s.

Policies 6.6(1), 11.3(2) and 11.12(1) prohibit sand and gravel extraction within E.S.P.A.s and require a buffer zone between any extraction activities and an E.S.P.A. for the purpose of protecting the E.S.P.A. An E.I.S. is not specifically required when extractive activities are proposed.

Other policies give notice that privately-owned E.S.P.A.s are not free and open for public use (Policy 13.22), consider the acquisition of E.S.P.A.s (Policies 13.18, 13.19, 13.22, 13.29), provide for the addition of E.S.P.A. lands to Map 4 of the Regional Official Policies

Plan (Policy 13.24), provide for more precise definitions of the boundaries of E.S.P.A.s (Policy 13.21), and suggest that Area Municipal official plans enlarge upon and more accurately reflect the E.S.P.A.s of the Regional Official Policies Plan (Policy 13.20).

Generally, proposals subject to E.S.P.A. policies follow the same approval process as would normally be applied, with extra steps added to incorporate the above-mentioned policies. Finer procedural details of how and where the steps fit into the normal planning process were left to be worked out through practice.

The extra steps are outlined in Figure 1. The flow chart applies to proposed Regional or Area Municipal Official Plan Amendments, zoning by-law amendments, and subdivisions. While the R.O.P.P. requires an E.I.S. for certain, proposed land severances and variances, it does not set out a process to accommodate them. Decisions for such proposals are the responsibility of a Regional Land Division Committee and Area Municipal Committees of Adjustment.

4.3 Interpretation of E.S.P.A. Boundaries.

Environmentally Sensitive Policy Area boundaries were arrived at through a combination of recommendations by local naturalists, political considerations such as zoning categories and commitments to urban use, negotiations with landowners, and finally, examinations by senior Regional staff of 1:4,800 aerial photographs. In the last stage, woodlot edges appear to have been used often as the most obvious boundaries. Field work conducted by senior university students during 1975, under a Ministry of the Environment Experience '75 grant, emphasized boundary delineation of many of the proposed E.S.P.A. sites they inventoried. However, their boundary work was not reflected in the final determination of the general E.S.P.A. boundaries. Many field areas, hedgerow systems, and buffer areas recommended as part of the E.S.P.A.s by the Experience '75 group, were not incorporated.

The boundaries were drawn by senior Regional planning staff onto 1975, 1:4,800 aerial photographs. These served as the basis for the location and shapes of E.S.P.A.s shown on Map 4 of the Regional Official Policies Plan.

Sometime later, the boundaries were duplicated on a bound series of aerial photographs covering the entire Region, and showing a wealth of additional information such as Grand River Conservation Authority Regulated Areas, Regional forests, Regional landfill sites, licenced areas for sand and gravel extraction, trunk water and sewer lines, hydro transmission lines, and oil and gas pipelines.

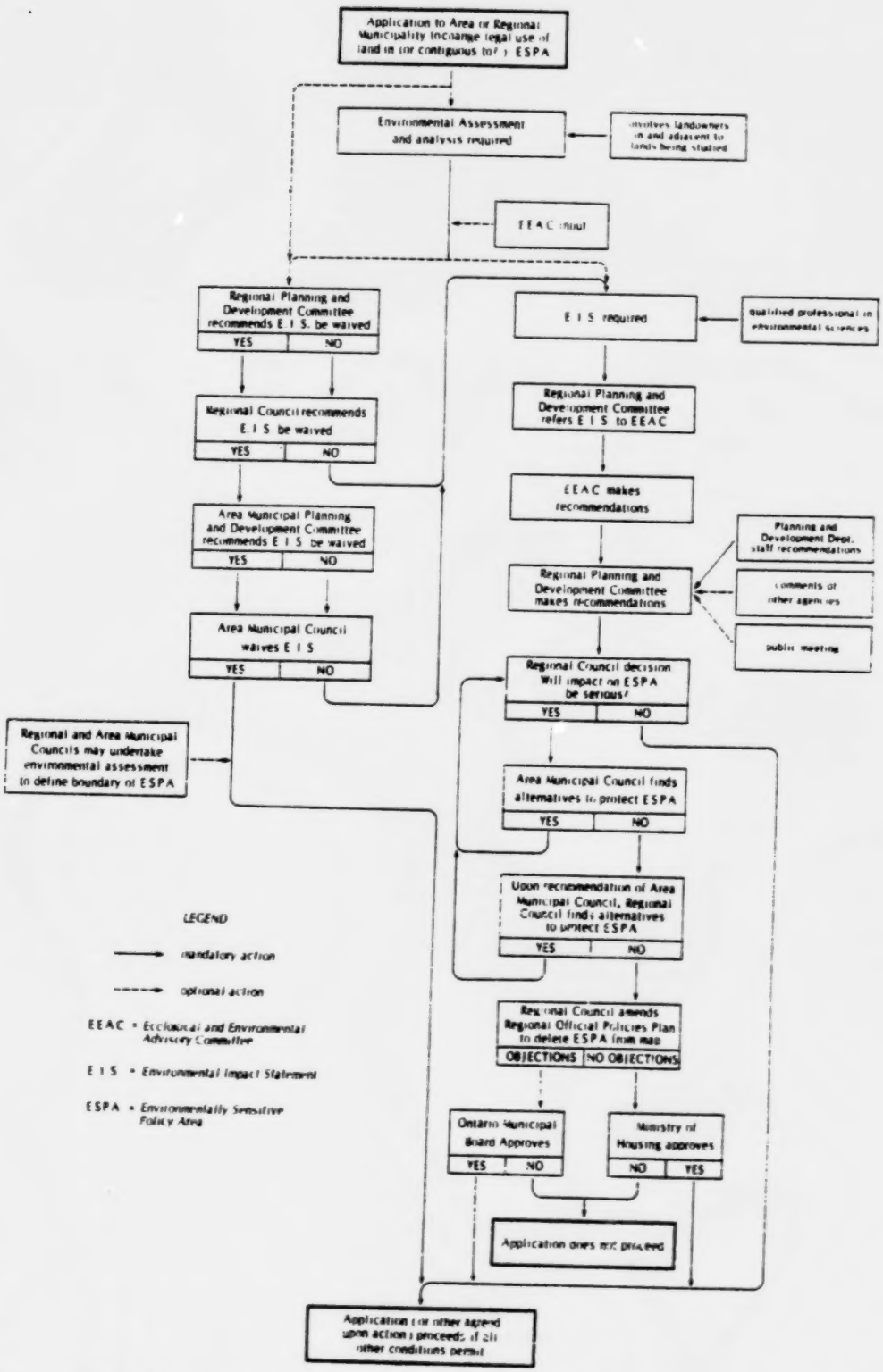
Application to Area or Regional Municipality to change legal use of land in (or contiguous to?) ESPA
Environmental Assessment and analysis required
involves landowners in and adjacent to lands being studied
EEAC input
Regional Planning and Development Committee recommends E I S. be waived
YES
NO
Regional Council recommends E I S be waived
YES
NO
Area Municipal Planning and Development Committee recommends E I S be waived
YES
NO
Area Municipal Council waives E I S
YES
NO
E I S required
qualified professional in environmental sciences
Regional Planning and Development Committee refers E I S to EEAC
EEAC makes recommendations
Planning and Development Dept. staff recommendations
Regional Planning and Development Committee makes recommendations
comments of other agencies
public meeting
Regional Council decision Will impact on ESPA be serious?
YES
NO
Regional and Area Municipal Councils may undertake environmental assessment to define boundary of ESPA
Area Municipal Council finds alternatives to protect ESPA
YES
NO
Upon recommendation of Area Municipal Council, Regional Council finds alternatives to protect ESPA
YES
NO
Regional Council amends Regional Official Policies Plan to delete ESPA from map
OBJECTIONS
NO OBJECTIONS
Ontario Municipal Board Approves
YES
NO
Ministry of Housing approves
NO
YES
Application does not proceed
Application (or other agreed upon action) proceeds if all other conditions permit
LEGEND
mandatory action
optional action
EEAC = Ecological and Environmental Advisory Committee
E I S = Environmental Impact Statement
ESPA = Environmentally Sensitive Policy Area

FIGURE 1. LEGAL PROCESS* TO PROTECT ENVIRONMENTALLY SENSITIVE POLICY AREAS, REGIONAL MUNICIPALITY OF WATERLOO

*as interpreted by K.L. McCulloch.

© McCulloch 1981

During the summer of 1981, the drafting division of the Planning and Development Department plotted the E.S.P.A. boundaries onto 1981 aerial photos at a metric scale of 1:5,000.

There are minor differences in the boundaries between Map 4 and the aerial photographs. Boundaries on the aerial photos were drawn to exclude such man-made features as roads and above-ground utility lines. The breaks they cause in the E.S.P.A.s are not reflected on Map 4 in the Regional Official Policies Plan.

Map 4, and not the aerial photographs, is officially recognized as showing the boundaries yet staff, logically, rely consistently on the more detailed aerial photographs for E.S.P.A. boundaries. For instance, it was the latter that were used in discussions of the River Road extension through E.S.P.A. 27, Hidden Valley. Map 4 depicts E.S.P.A. 27 as one block, whereas the boundaries on the aerial photos show two distinct blocks separated by a Bell telephone line. Even though discussions during meetings of an inter-agency project committee indicated the Bell line had established itself as part of the E.S.P.A.; maps for the project continued to exclude the Bell line from the E.S.P.A., as per the aerial photographs.

In a discussion paper on the "Plans Approval Process and Environmentally Sensitive Policy Areas" (W. Wright, Senior Planner to G. A. Thompson, Director of Planning and Transportation, August 1, 1980) it was suggested that the series of aerial photographs with the E.S.P.A. boundaries be adopted as an Implementation Plan. It was not followed through.

IT IS RECOMMENDED THAT AERIAL PHOTOGRAPHS REFLECTING GENERAL E.S.P.A. BOUNDARIES AT A MORE DETAILED SCALE THAN MAP 4, BE GIVEN A RECOGNIZED STATUS. This would allow for minor changes in the boundaries, as they are more precisely established over time, to be reflected and officially recognized on the aerial photographs, without the need for amendments to Map 4 of the Regional Official Policies Plan.

The original boundaries were intended to be only general in nature on the understanding that more precise boundaries would be established through environmental assessments or impact statements (Policies 13.21, 13.31). Although some may be more accurate than others, there is no existing, reliable information to support where such may be the case. The effect of time on memories about why original boundaries were placed where they were, staff turnovers, and both cultural and natural changes to the E.S.P.A.s over time,

imply that accurate boundary delineation is a necessary step in determining the precise proximity of a proposal to an E.S.P.A..

Environmental Impact Statements and preliminary environmental assessments have sometimes, but not always, included boundary delineation of an E.S.P.A.. When they have addressed the issue, it has usually been in relation to a development proposal which is expected to infringe on the generally defined boundaries. In such cases, only the interfacing boundary between a proposal and the E.S.P.A. was usually discussed (i.e. #17: 30T-80019; #23: Block Plan 66; #24: Ottawa Street extension; #27: Community Plan). An Environmental Impact Statement for #59: 30T-77037 was an exception, recommending a boundary delineation for the entire E.S.P.A.

In the face of several other development proposals, boundaries have been accepted as generally defined, with little or no documentation to justify their acceptance. For instance, when proposals have appeared to be contiguous to an E.S.P.A., boundaries have usually been accepted as given. There has been little consideration of the possibility that factors that qualified an area for designation may spill over into the area of a proposal (i.e. #27: Zoning By-law 80-157; #41: 30T-80011; #42: 30T-80004; #61: 30T-79032)..

4.4 Permitted Activities

Not all activities within and contiguous to E.S.P.A.s are subject to scrutiny. Policy 13.15 recognizes "the continued legal use of land contiguous to and within E.S.P.A.s" and then sets out a list of uses that may continue if they were already permitted when the Regional Official Policies Plan came into force. The wording is not specific as to whether the list is intended to be all-inclusive or just an illustration of examples. In 1977, a landowner was advised that he could not fill in a pond because it was not a permitted use in the list of Policy 13.15 (#58: Kehare Investments Limited). However, this appeared to be an isolated case, early in the history of the policy implementation. Generally, the policy has been interpreted that one may carry out <u>any</u> activities within or contiguous to an E.S.P.A. that are permitted, at the given point in time, by zoning by-laws and other regulations. For instance, a 1978 proposal was made for a minature golf course, driving range and service building, partially infringing on the same E.S.P.A. as above (#58: Thornewell). The Region interpreted that it had no jurisdiction over the activities if all

other regulations permitted them, but offered to help develop a management plan for the site to minimize any negative ecological impacts.

Only sites in non-urban-oriented zoning categories were originally designated as E.S.P.A.s. Still, as illustrated above, there are many permitted activities, including farming operations, logging, and alterations to drainage, with the potential to significantly alter E.S.P.A.s. Usually, the conduct of such activities does not come to the attention of the Region. The point reinforces the need for field work to investigate how the E.S.P.A.s have been physically affected over the past five years, to illustrate if the present package of policies is adequate protection to meet Regional goals.

4.5 Contiguous Lands

Key wording in Policy 13.15 is that it recognizes the continued legal use of land contiguous to E.S.P.A.s, as well as within E.S.P.A.s. According to the Canadian edition of Funk and Wagnall's Standard College Dictionary, both the words 'contiguous' and 'adjacent' can infer nearby or close, but not necessarily touching. It also suggests that adjacent is more likely to include both the senses of adjoining and neighbouring or nearby, while contiguous suggests extensive, though not always complete, contact.

Regional staff have used the words contiguous and adjacent interchangeably, generally applying policies for contiguous lands to proposals which abutted or were separated only in a minor way from an E.S.P.A., such as by a proposed road or railway track (i.e. #41: 30T-77012). It is conceivable that proposals at greater distances could have major impacts upon E.S.P.A.s. IT IS RECOMMENDED THAT THE REGION CLARIFY THE SITUATIONS THAT CONSTITUTE CONTIGUOUS LANDS TO E.S.P.A.s.

The Regional interpretation of contiguous is important in light of the implication Policy 13.15 has for other policies. Since Policy 13.15 recognizes continued legal uses contiguous to E.S.P.A.s (as well as within them), does it imply that any change to such a use is subject to specific policies governing the change? One might expect so, but the wording of Policy 13.31 confuses the matter.

Policy 13.31 requires in E.S.P.A.s, that an environmental

assessment and analysis for preparation of an Environmental Impact Statement be carried out when considering proposals for changing the legal use of land and buildings. It does not specifically mention lands contiguous to E.S.P.A.s. The wording may be interpreted two ways:

1) that the requirement for an Environmental Impact Statement applies only to proposals in an E.S.P.A., or

2) that the requirement for an Environmental Impact Statement is to be carried out for the land in an E.S.P.A., whether the proposal applies within or contiguous to the E.S.P.A.

Policies 13.16 and 13.17 may be construed to imply that environmental studies are required for proposals on lands both within and contiguous to E.S.P.A.s. The above two policies set out how to process an application "when a change in the legal use of land" is "not in accordance with" Policy 13.15 -- which included the recognized uses of contiguous lands. The processes, require information from an E.I.S., which are discussed only in Policy 13.31. By considering Policies 13.15, 13.16, 13.17 and 13.31 together, one might infer that a change in the use of land contiguous to an E.S.P.A. would require that an E.I.S. be conducted.

The ambiguity, caused particularly by Policy 13.31, has allowed the Region to implement policies as if it were optional for it to require an E.I.S. for proposals contiguous to E.S.P.A.s. Environmental Impact Statements have been required for some proposals contiguous to E.S.P.A.s (#41: 30T-77012: #25: 30T-79003: and #32: 30T-76011 where a proposal for Old Carriage Drive was referred to as adjacent, but actually projected into the E.S.P.A. in one area). In many more proposals for contiguous lands the need for an E.I.S. was considered under the assumption that it could be required, but for various reasons was determined not to be warranted (#45: Zone change 307-77; #30: 30T-79017; #41: 30T-80011).

In 1979 discussions surrounding Hurox Holdings, Old Mill Subdivision (#31: 30T-76037), Regional staff expressed that no E.I.S. was required for proposals adjacent to E.S.P.A.s.

The interpretation that an E.I.S. is optional for proposals outside E.S.P.A. boundaries was again implied in the August 1, 1980 discussion paper on the "Plans Approval Process and Environmentally Sensitive Policy Areas" (W. Wright, Senior Planner to G. A. Thompson, Director of Planning and Transportation). Suggested procedures required an E.I.S. for

proposed official plan amendments, zoning by-law amendments and subdivision plans inside E.S.P.A.s but recommended an in-house review during the 30-day circulation period of the proposal to determine the need for an E.I.S. if a proposed official plan amendment or subdivision were outside an E.S.P.A.. It did not refer to conducting an E.I.S. for a zoning by-law amendment outside an E.S.P.A..

The above discussion shows there have been inconsistent interpretations, applications, and confusion concerning the requirement for an E.I.S. when a proposal is made contiguous to an E.S.P.A. THE REGION MUST CLARIFY WHETHER POLICY 13.31, OR ANY OTHER POLICY OF THE REGIONAL OFFICIAL POLICIES PLAN, REQUIRES AN E.I.S. TO BE CONDUCTED, TO ASSESS POTENTIAL IMPACTS ON AN E.S.P.A., WHEN A PROPOSAL IS MADE TO CHANGE THE LEGAL USE OF LAND CONTIGUOUS TO AN E.S.P.A..

4.6 Waivers

4.6.1 Usual Process for Waivers.

The requirement for an Environmental Impact Statement (E.I.S.) may be waived by an Area Municipal Council, in co-operation with Regional Council, where it has been determined under policies in Area Municipal Official Plans or Amendments and Implementation Plans that an E.I.S. is not warranted (Policy 13.31). Few, if any, of the planning staff members are sure about how the above conditions for waiving the requirement of an E.I.S. should be interpreted.

There have been four cases in which the requirement for an E.I.S. has been formally waived by an Area Municipal Council, in co-operation with Regional Council. All were in the City of Kitchener (#23: Block Plan 66; #24: Ottawa Street extension; #25: Eastside Arterial; #29: 30T-79025).

In each case, an environmental assessment was carried out to define the boundary of the E.S.P.A. that interfaced with the proposal. The assessments went further, to suggest protective measures for the E.S.P.A.s in the events that the proposed developments proceeded. The assessments were done prior to the waivers of the E.I.S. requirements being approved by Councils, although City and Regional planning staff generally indicated support for the waiver prior to an assessment being conducted. Policy 13.31 states that, when an E.I.S. is not warranted, the Region and Area Municipality may undertake an environmental assessment, if necessary to establish the boundary of an E.S.P.A..

From an operational viewpoint, the environmental assessments preceding the waivers have been an advantage, as they have been used to support the waivers.

In the case of the Trillium Industrial Park expansion adjacent to Steckle's Woods (#29: 30T-79025), it was a consultant to the applicants, rather than the Region or Area Municipality, who conducted the environmental assessment. This process too, appeared to work smoothly. During earlier proposals for the Ottawa Street extension and Eastside Arterial, staff expertise of the Regional Planning and Development Department had been available to conduct the assessments. The staff member's expertise had been partially developed through a close involvement with the designation of E.S.P.A.s and their associated policies, as well as continuous involvement with the Ecological and Environmental Advisory Committee. At the time of the Trillium Industrial Park proposal, and to the present, the same extent of staff expertise has not been available. An alternative to the applicant submitting an assessment, would be for the Region and Area Municipality to hire the expertise on either a full-time or consultant basis.

The environmental assessments and accompanying recommendations to waive the requirement for Impact Statements pertaining to E.S.P.A.s 24, 25 and 29 were referred to the Ecological and Environmental Advisory Committee (E.E.A.C.) for comments. Recommendations to waive the E.I.S.s were then passed, in turn, from E.E.A.C. to the Regional Planning and Development Committee, to Regional Council, to the Area Municipal Planning and Development Committee, before being finally approved by the Area Municipal Council.

4.6.2. Implementation Plan and Waivers.

Block Plan 66 was a different situation. A site inspection was conducted jointly by representatives of the Regional and City Planning Departments, Kitchener Planning Committee, individual landowners, and a consulting firm for the landowners. A formal environmental assessment report was not written up, and the environmental issues and recommendation to waive the requirement for an E.I.S. were not referred to E.E.A.C. for consideration. Since the Regional Official Policies Plan does not specifically require environmental studies for Implementation Plans affecting E.S.P.A.s, there was no requirement for review by E.E.A.C.. Section 4.6.2 of the Implementation Plan noted that the Council of the City of Kitchener, in co-operation with Regional Council, waive the requirement for an E.I.S. concerning E.S.P.A. 23,

subject to hydrological functions being maintained. Section 4.6.3 further required an engineering study to be done by the City to demonstrate that construction of a proposed drain would not impact on the water table of the E.S.P.A.. The waiver, measure for hydrological precaution, and definition of the north boundary of the E.S.P.A. went through the approval process of the respective planning committees and councils, as part of the Implementation Plan.

Perhaps Block Plan 66 was the first, and only, example of policies in an Implementation Plan setting out the conditions under which an E.I.S. would not be warranted (as referred to in the Regional Official Policies Plan, Policy 13.31). If so, it went to the extent of apparently accomplishing the waiver(s) for future development applications in the area. No E.I.S., or additional E.I.S. waiver, was processed in the case of a subsequent zone change and subdivision application within the Block Plan, but the reasoning was because the development proposal was contiguous to the precisely established boundary of the E.S.P.A. and not because of the waiver in the Block Plan (#23: Zoning By-law 80-42; 30T-79027).

4.6.3 Contiguous Lands and Waivers.

When boundaries for E.S.P.A.s 23, 24 and 25 were established by environmental assessments, the proposals for development were shown to be adjacent rather than within the E.S.P.A.s. The need to formally waive the requirement for an E.I.S. was dependent on the interpretation of policies in the Regional Official Policies Plan, as to whether or not an E.I.S. was required in the first place for proposals on land contiguous to an E.S.P.A..

It would seem logical that if Policies 13.16, 13.17 and 13.31, taken together, require an E.I.S. to be conducted for a proposal on lands CONTIGUOUS to an E.S.P.A., then the alternative requirement for a formal waiver, as per Policy 13.31, also applies to proposals for lands CONTIGUOUS to an E.S.P.A.. The policies have not been always applied in that way. Many proposals have been processed for development adjacent to E.S.P.A.s that have had neither an E.I.S. or waiver of the requirement carried out (i.e. #25: 30T-80022; 42: 30T-80004; 45: Zoning By-law 348-77).

4.6.4 Revised Proposals and Waivers.

Where a subdivision application is re-subdividing a previously

approved subdivision, the Regional Planning and Development Department has determined, in the past, that neither an E.I.S. or formal waiver is required, if the environmental conditions applied to the previous subdivision can be satisfied (i.e. #32: 30T-80028). Since it is possible that, as time elapses, the conditions of an E.S.P.A. may change, or that potential impacts from a proposal for re-subdivision may differ somewhat from the original plan, perhaps an E.I.S., or a waiver to justify that one is not necessary, should be applied.

The following is another situation for which the requirement for an E.I.S. or waiver may be ambiguous. An E.I.S. may be carried out and fully processed for a proposal that finally is not approved for reasons unrelated to the E.S.P.A.. What is the requirement for an E.I.S. if a subsequent proposal for the same lands is submitted? If a new E.I.S. is not required, is a waiver of the requirement necessary by the Area Municipal Council, in co-operation with Regional Council? Environmentally Sensitive Policy Area 59 is an example where such a situation may arise.

4.6.5 E.S.P.A. Lands and Waivers.

The above discussion pointed out that some proposals on lands CONTIGUOUS to E.S.P.A.s have had neither impact statements or waivers of the statements processed. There have also been cases of proposals involving lands (or lands and buildings, as per Policy 13.31) WITHIN E.S.P.A.s, that have had neither impact statements or waivers of the statements processed (i.e. #22: Zoning By-law 1312; #29: Homer Watson Blvd.; #66: North Dumfries O.P.A. #7).

In the case of E.S.P.A. 22, a proposed zone change (By-law 1312) was not pre-circulated to the Region before it was passed by the Area Municipality. When finally received by the Region, an Impact Statement was required. The Region Planning and Development Department did however, consider other alternatives to an E.I.S. and finally settled with the Area Municipality on a development agreement between the applicant and the City being approved by the Region and registered on title, to account for E.S.P.A. concerns. Although a satisfactory means of protecting the E.S.P.A. may have been accomplished, it should be questioned whether the Regional Official Policies Plan still required Regional Council to waive the E.I.S..

One of the Region's own projects intruded on an E.S.P.A. without an E.I.S. or waiver as called for by the Regional Official Policies Plan. Policy 13.23 appears to have required the results of an E.I.S. to be approved by Regional Council before a realignment of Homer Watson Boulevard in Kitchener was permitted. An E.I.S. was not conducted despite the regrading of a slope and removal of trees on the northwest corner of E.S.P.A. 29. Depending upon one's interpretation, Policy 13.31 may permit the requirement for an E.I.S. in Policy 13.23 to be waived, but in this case, no waiver was processed as an alternative to the E.I.S.. [1] Approved plans to widen Homer Watson Boulevard from two to four lanes, in a few years, slate further grading and removal of more trees within a corner of the E.S.P.A.. As soon AS A FIELD SEASON PERMITS, IT IS RECOMMENDED THAT THE REGION CONDUCT AN ENVIRONMENTAL ASSESSMENT OF THE POTENTIAL IMPACTS, AND POSSIBLE MEANS TO MITIGATE ANY IMPACTS, OF THE WIDENING OF HOMER WATSON BOULEVARD ON E.S.P.A. 29.

North Dumfries Official Plan Amendment No. 7 appeared to have included part of E.S.P.A. 66. No E.I.S. or waiver was carried out. The case was not reviewed in detail, so the author has no explanation at this time.

4.6.6 Recommendations to Clarify Policies on Waivers.

The study, as discussed in this section, illustrated the need for the Region to clarify two major aspects about waiving the requirement for an E.I.S.

1. GUIDELINES ARE REQUIRED OUTLINING THE TYPES OF PROPOSALS AND CONDITIONS OF A PROPOSAL WHERE, IF AN E.I.S. IS NOT CONDUCTED, A WAIVER OF THE REQUIREMENT MUST BE PROCESSED AS AN ALTERNATIVE. For instance, the Region should consider and make clear its policies regarding waivers for proposals contiguous to E.S.P.A.s and regarding revised proposals potentially affecting E.S.P.A.s, where an E.I.S. has been approved in relation to a previous application.

[1] Policy 13.31 states, "The requirement for an Environmental Impact Statement, as defined above may be waived ...". 'Above' may be interpreted as applying either to the above paragraph in Policy 13.31 or to any references, defining the requirement for an E.I.S., in the previous portion of the chapter (i.e. Policy 13.23).

2. THE LEGAL CONDITIONS WHICH PERMIT THE REQUIREMENT FOR AN E.I.S. TO BE WAIVED SHOULD BE REVIEWED AND CLARIFIED. Policy 13.31 sets out conditions but they are not clear. Furthermore, they do not appear to have been the conditions under which waivers have been approved.

4.7 Environmental Impact Statements

4.7.1 General.

As of July 1981, 14 reports, classed as Environmental Impact Statements pursuant to Policy 13.31 of the Regional Official Policies Plan, had proceeded through a Regional review process. The E.S.P.A.s and development proposals that they pertained to are listed in Table 1. Eight related directly to subdivision applications (#17: Laurel Woods; #17: 30T-80019; #25: 30T-79003; #30: 30T-76044; #32: 30T-76011; #41: 30T-77012; #55: 30T-76019; #59: 30T-77037). Another 3 Impact Statements, which addressed a community plan, zone change application, and new extension of a road, were related to plans for an industrial subdivision in Hidden Valley, Kitchener (E.S.P.A. 27). The remaining 3 Impact Statements were conducted in relation to a proposed zone change to allow construction of 3 houses, and to two applications to the Ministry of Natural Resources for licences to operate gravel pits.

Of the 14 Environmental Impact Statements that have been completed, 10 involved proposals that intruded to varying degrees into the E.S.P.A.s as they were generally defined. The remaining 4 were for proposals contiguous to E.S.P.A.s (#25: 30T-79003; #27: Zoning By-law 80-157; #41: 30T-77012; #48: Sherk pit licence).

Five more Environmental Impact Statements have been required but not yet submitted. The situations for these are described in Table 2.

TABLE 1.

ENVIRONMENTAL IMPACT STATEMENTS & ACCOMPANYING REPORTS, REVIEWED BY ECOLOGICAL & ENVIRONMENTAL ADVISORY COMMITTEE

E.S.P.A.	APPLICATION	ENVIRONMENTAL REPORTS AND IMPACT STATEMENTS	DISCUSSION OR REVIEW BY EEAC
# 17 Schaefer's Woods	Sugarbush Holdings Limited: Laurel Woods Townhouse Subdivision	1976. "Groundwater Assessment - Proposed Erbsville Subdivision, Regional Municipality of Waterloo." 1976. "Groundwater Availability, Sewage Treatment and Disposal System, Environmental Impact Assessment." 1977. Mar. 1. "Environmental Impact Statement of the Effects of the Laurel Woods Development on Laurel Creek and Schaefer's Woods."	Nov. 10, 1976 Dec. 15, 1976 Jan. 26, 1977
#17	Schweigert Estates: Mapleview Plan of Subdivision 30T-80019	1980. Sept. "Mapleview - Environmental Impact Statement." 1980, Oct. "Addendum to Mapleview Environmental Impact Statement"	Oct. 8, 1980 Oct. 22, 1980
#25 Lackner Woods	Parkwood Developments Ltd.: Subdivision 30T-79003	1980. Aug. "Environmental Impact and Construction Management of Storm Water Detention System for Parkwood Subdivision	Sept. 10, 1980
#27 Hidden Valley/ Bird Ridge	Regional Municipality of Waterloo: Extension of River Road	1980. "Environmental Impact Statement re: Route Location and Feasibility Study."	Nov. 7, 1979 Dec. 12, 1979 Jan. 30, 1980 Feb. 13, 1980 Sept. 10, 1980

E.S.P.A.	APPLICATION	ENVIRONMENTAL REPORTS AND IMPACT STATEMENTS	DISCUSSION OR REVIEW BY EEAC
#27	Major Holdings and Developments Ltd.: Zoning By-law 80-157, Agricultural to Industrial	1980. July 28. "Industrial Site A - Storm Drainage Concept."	Sept. 10, 1980
#27	Major Holdings and Developments Ltd.: Hidden Valley Community Plan for an Industrial Subdivision	1980. "North Woodlot General Environment Overview." 1980. "Hidden Valley Community Environmental Impact Statement."	Feb. 11, 1981 Feb. 25, 1981 Apr. 1, 1981
#30 Strasburg	Major Holdings and Developments Ltd.: Pioneer Park West, Subdivision 30T-76044	1977. Aug. "Environmental Impact Statement" 1977. Aug. 26. Revised Environmental Impact Statement.	Sept. 28, 1977
#32 Oregon Pond Woods	Major Holdings and Developments Ltd.: Old Carriage Dr. in Pioneer Park, Subdivision 30T-76011	Environmental Impact Statement	Sept. 22, 1976
#36 Junction of Speed and Grand Rivers	John Schropp: Zoning By-law 1079, Open Space to Single Residential	Environmental Impact Statement	Nov. 23, 1977
#41 Cedar Creek Spillway and Ayr Dam	Baycrest Consolidated Holdings Ltd.: Melair Industrial Development, Subdivision 30T-77012	1977. Jan. "Melair Industrial Development, Environmental Report." 1977. Feb. 25. Revised	Feb. 9, 1977 Mar. 9, 1977

E.S.P.A.	APPLICATION	ENVIRONMENTAL REPORTS AND IMPACT STATEMENTS	DISCUSSION OR REVIEW BY EEAC
#48 Hungry Hill	Helen Sherk: Application Extraction Licence	Environmental Impact Statement	Nov. 23, 1977
#50 Miller's Lake #51 Upper Glen Morris Road	341595 Ontario Limited: Application for Extraction Licence	Environmental Impact Statement	Jan. 26, 1977
#55 Orr's Lake	Lloyd Brown: Subdivision 30T-76019	"Groundwater Availability and Environmental Impact Assessment."	Mar. 22, 1978 Apr. 12, 1978
		"Brown Property - Environmental Impact Statement - Surface Water Control"	Apr. 26, 1978
#59 Salisbury Ridge and Victoria Park	Freure Homes Limited: Cambridge West Community 30T-77037	1976. July 15. "Cambridge West Community Environmental Features" Aerial Photo	Apr. 13, 1977 Apr. 29, 1977
		1977. Mar. "Preliminary Geotechnical Investigation, Proposed Subdivision Cambridge West Community, Cambridge, Ontario"	Mar. 22, 1978 Apr. 22, 1978 Apr. 26, 1978 May 10, 1978 May 24, 1978
		1977. Apr. 14. Cambridge West Community: E.S.P.A. 59, Proposed Environmental Area West of C.P.R., Drawing 1264-E-7	June 14, 1978
		1977. July. Map 1, Cambridge West, Vegetation Units.	
		1977. Aug. "Cambridge West Community Storm Drainage Study"	
		1977. Aug. 16. "Environmental Impact Statement for E.S.P.A. No. 59 and Cambridge West Community Adjacent to E.S.P.A. 59 (Revised)"	

TABLE 2: ENVIRONMENTALLY SENSITIVE POLICY AREAS FOR WHICH AN ENVIRONMENTAL IMPACT STATEMENT HAS BEEN REQUIRED BUT NOT COMPLETED (AS OF JULY, 1981).

1. E.S.P.A. #10 - Sunfish Lake

   Several landowners at Sunfish Lake, together, have proposed amendments to the Wilmot Official Plan and Zoning By-law 1175 to allow for the development of vacant lots and redevelopment of existing lots. On June 8, 1981, Wilmot Council agreed to support development and redevelopment in the area (Part Lot 2, Concession 3, Block B) for seasonal cottages. The Township Council requires an Environmental Impact Statement be prepared by the residents and approved pursuant to the Regional Official Policies Plan, prior to its preparing and adopting the appropriate amendments.

2. E.S.P.A. #35 - Doon Pinnacle Hill

   Part of the E.S.P.A. falls within Plan of Subdivision 1461, registered in 1979. At the time of registration, much of the E.S.P.A. within the Plan was deeded to the City of Kitchener for public open space (26.8 acres). Planning matters were unresolved for an additional 3.5 acre block of the E.S.P.A. proposed by Margaret Schiketanz Real Estate Limited for future development. A condition of a Residential Subdivision Agreement, registered in 1977, between the subdivider and the City of Kitchener, requires an Environmental Impact Statement to be submitted prior to rezoning this block from agriculture and prior to finalization of a Doon South Secondary Plan.

3. E.S.P.A. #37 - Blair Swamp

   Forwell Limited has applied to the Ministry of Natural Resources for an extraction licence in the north half of lot 22, concession 12. The licence would cover part of E.S.P.A. #37. Gravel extraction is proposed up to the wooded edge of the E.S.P.A. A zone change is also required to permit this use. The Regional Municipality has determined that an Environmental Impact Statement will be required.

4. E.S.P.A. #61 - Taylor's Lake

Plan of Subdivision 30T-80003 (Dr. A. J. MacKinnon), proposing 14 single family lots in the vicinity of West River Road received Regional draft approval on May 29, 1980. Nine lots infringe upon the E.S.P.A. as it is generally defined. Conditions of draft approval include that the owner complete an Environmental Impact Statement to the satisfaction of the Regional Municipality, prior to final approval of the Plan, and enter into agreement with the Region for implementation of the Environmental Impact Statement and protection of the E.S.P.A.

5. E.S.P.A. #67 - Branchton Swamp and Woods

Draft Plan of Subdivision 30T-81013 (Mr. H. Hessler) proposes 28 residential lots. A few of these lots extend into the E.S.P.A. as its boundaries are presently defined. Originally, the intruding lots were also outside the Branchton Settlement Area but in May 1981, North Dumfries Council proposed a modification to the Settlement Plan that allows this subdivision to conform.

A zone change from agricultural to rural residential has been applied for.

The Regional Municipality has circulated the Draft Plan of Subdivision for comments but requires an Environmental Impact Statement to be submitted and reviewed by the Ecological and Environmental Advisory Committee prior to draft approval of the Plan. Draft approval of the subdivision must also await approval of the North Dumfries Official Plan.

4.7.2 Stage of Environmental Impact Statements in the Plans Approval Process

In many cases, applicants were aware of an E.S.P.A. designation on land to be affected by a proposal and included considerations for the E.S.P.A. in an initial proposal. Even prior to formal submission of a proposal, some applicants consulted with Regional planning staff as to what steps were required to accomodate the E.S.P.A. (i.e. #17: 30T-80019).

In other cases, submitted proposals made no mention of an E.S.P.A. designation and it was up to Regional staff to identify if an E.S.P.A. was in close proximity to the proposal.

In the vast majority of proposals to change the legal use of land in or contiguous to E.S.P.A.s, proximities to the sensitive areas were identified in early stages of the plans approval process, if not prior to it. Exceptions included the Hurox Holdings, Old Mill Subdivision (#31: 30T-76037) and #66: North Dumfries Official Plan Amendment No. 7.

Whenever an Environmental Impact Statement was required in relation to a subdivision, it was reviewed by E.E.A.C. and approved by Regional Council prior to DRAFT approval of the subdivision. #61: 30T-80003 will be the first exception. The MacKinnon-Wiegand subdivision was draft approved in 1980 with a condition that an E.I.S. be completed, to the satisfaction of the Region, prior to REGISTRATION of the Plan.

In cases of zone changes, Environmental Impact Statements proceeded through the Regional review process of E.E.A.C., Planning and Development Committee, and Regional Council, after the amending by-laws were passed by the appropriate Area Municipalities but before the Region forwarded its comments on the by-laws to the Ontario Municipal Board.

Area Municipalities tended to include the preparation of an E.I.S. as a condition of passing a zoning by-law amendment (i.e. #17: Z-76-3; #27:80-157). When Kitchener Council passed By-law 80-157 to allow development of Industrial Site A, it required than an Environmental Impact Statement be approved by both the Region and the City prior to building permits being issued or any grading changes taking place. Lands for development were contiguous to the generally defined boundaries of E.S.P.A. 27.

Regional Council required approval of the Impact Statement at an earlier stage than did the City: prior to forwarding its comments to the Ontario Municipal Board. However, the Region approved Kitchener Official Plan Amendment No 3, for the same piece of property, prior to submission of the Impact Statement.

In each of two cases of an Impact Statement being carried out in application for a licence to open, operate, or establish a pit, the Statement was reviewed by E.E.A.C. prior to the Region forwarding its comments on issuance of the licence to the Ministry of Natural Resources.

In all cases, since the operational procedures for E.E.A.C. were approved in 1977, the Area Municipalities were required to indicate a commitment to processing an application, before the Regional Planning and Development Department would recommend that the Regional Planning and Development Committee refer an Environmental Impact Statement to E.E.A.C. This usually took the form of an approval in principle of a subdivision or the passing of a zoning by-law.

In referring an Impact Statement to E.E.A.C., the Planning and Development Committee may charge E.E.A.C. to report back with its comments within 30 days (i.e. #30: 30T-76044; #36: Zoning By-law 1079).

In two cases, it was the waiting for commitments from the City of Cambridge that appeared to delay the processing of Impact Statements after they had been received by the Region. An Impact Statement for #36: Zoning By-law 1079 waited 3 months for review by E.E.A.C. (August to November, 1977) and one for #59: 30T-77037 was delayed seven months (November 1977 to March 1978).

Initially, circulation of the draft plan of subdivision 30T-77037 was delayed partially because the proposal to intrude on E.S.P.A. 59 did not conform to the Regional Official Policies Plan and an Environmental Impact Statement addressing the intrusion had not been prepared. #50/51: 341595 Ontario Limited pit licence was another case delayed while an Impact Statement was prepared but the delay cannot be attributed to a Regional problem. At the end of October, 1976, the Ministry of Natural Resources requested Regional comments on the application for a licence to operate a gravel pit. The Region delayed its comments until after an Impact Statement was reviewed. Although the Region met with the applicant and discussed

the need for an Environmental Impact Statement as early as July 1976, a Statement was not submitted until January 1977. It was considered by E.E.A.C. within a week after its submission. Approval of the E.I.S. by Regional Council then waited one more month while the report was rewritten to conform to the Regional Official Policies Plan.

In the vast majority of cases, however, the preparation and review processes for Environmental Impact Statements fit timely into the normal planning process for development proposals (i.e. #25: 30T-79003; #30: 30T-76044; #32: 30T-76011; #41: 30T-77012; #48: Sherk pit licence). Any delays to projects were usually caused by factors unrelated to their relationships with E.S.P.A.s.

4.7.3 Content.

Policy 13.31 requires that an environmental assessment and analysis for the preparation of an Environmental Impact Statement be carried out. The ambiguity concerning the situations subject to Environmental Impact Statements has been previously discussed.

The Regional Official Policies Plan does not define what an assessment and analysis should be. A number of environmental studies preliminary to, or in lieu of, Environmental Impact Statements have been carried out both by the Region and by private developers (i.e. #24: 30T-79006; #29: 30T-79025; #25: R.P. 1461; #41: North Dumfries O.P.A. No. 3; #45: Zoning By-law 348-78; #68: Cheese Factory Road). The environmental assessments have varied considerable from quick site visits by a Regional planner to a developer's professional consultant preparing an environmental assessment report more detailed than some of the Environmental Impact Statements have been.

The operational procedures for E.E.A.C., established in 1977, permit a developer to seek help from E.E.A.C. in determining the type of assessment (or Impact Statement) that should be done for a specific project, or more specifically, the major concerns to be addressed. The Committee has not often been used in this capacity. When E.E.A.C. has been approached, it has found it difficult to provide direction with little preliminary information available about a site (i.e. #10: 1976 Preliminary Plan of Subdivision; E.E.A.C. Minutes

April 28, May 12, 1976).

More often it has been the Regional Planning and Development Department that has indicated specific concerns to be addressed in Impact Statements for specific projects. Drainage and storm water management have been the major concerns expressed. They, in turn, have been taken to be the exclusive concerns that need to be addressed in some cases, resulting in ad hoc reports being submitted as Impact Statements for the purpose of Policy 13.31 (i.e. #25: 30T-79003; #27: Zoning By-law 80-157).

The length of Environmental Impact Statements has ranged from 4 pages (i.e. #27: Zoning By-law 80-157; #30: 30T-76044; #32: 30T-76011) to approximately 70 pages (#27: Hidden Valley Community Plan).

None of the Environmental Impact Statments have addressed all of the topics required by the Regional Official Policies Plan, Policy 13.31. Most have failed to address (3)(b)(i), a rationale for the undertaking; (3)(b)(ii and iii), a description and rationale for the alternative methods of carrying out the undertaking, and the alternatives to the undertaking; (3)(d) an evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking; and (3)(e) involvement of the owners of the land, and those owners lying adjacent to the subject lands being studied, in the environmental impact analysis before completion of the Statement.

Policy 13.31 (2) sets out eight criteria as guidelines for indicating (assessing) the environmental quality and character of an E.S.P.A. Technical data sheets were prepared for the Region during 1974 and 1975 to indicate the criteria met by each E.S.P.A.. Some of these were updated in 1978. Environmental assessment reports and Impact Statements, in some cases, have addressed only the criteria and particular species for an area, as stated in the data sheet. These cases avoided searches for new information, despite the fact that the data sheets were neither recent or complete. Furthermore, some environmental studies have restricted themselves to assessing the quality and character of the immediate area of the E.S.P.A. to be infringed upon, neglecting the significance of that part of the E.S.P.A. to the remainder of the sensitive area. The environmental assessments for #24: Ottawa Street extension

and #25: Eastside Arterial took this approach.

Policy 13.31(3)(c)(i,ii,iii), descriptions of the environment expected to be affected by a proposal, the expected effects, and mitigative measures have been the most consistently addressed items in Impact Statements.

One of the better examples of an Impact Statement, in terms of format, was only 6½ pages, prepared for E.S.P.A. 36 to encourage approval of Zoning By-law 1079. It was to permit a relatively small scale project to construct three houses. The briefness of the Statement was in accordance with the scale and expected impacts of the development proposal. It addressed many of the difficult items in the Regional Official Policies Plan that several other Impact Statements ignored, such as alternatives to the undertaking but not the purpose, noted that measures would be taken to preserve trees but did not explain what the measures would be, and gave no evidence that owners of adjacent land were involved in the environmental analysis.

In two cases E.E.A.C. requested revisions to the Impact Statements (#17: Laurel Woods; #41: 30T-77012). In #41: 30T-77012, the Committee deferred its decision on the Statement until it reviewed the revisions.

During meetings to review Environmental Impact Statements, E.E.A.C. members expressed concerns about the adequacies of at least half of the Statements presented:

i.e. E.E.A.C. Minutes
January 26, 1977, #17: Laurel Woods
Oct. 8, 1980, #17: 30T-80019
Sept. 10, 1980, #27: Zoning By-law 80-157
Sept. 28, 1977, #30: 30T-76044
Feb. 9, 1977, #41: 30T-77012
Nov. 23, 1977, #48: Helen Sherk pit licence
Mar. 22, 1978, #55: 30T-76019

Nevertheless, E.E.A.C. has recommended acceptance of all of the Environmental Impact Statements, In only one case, a minority statement to the consensus of the Committee recorded concerns about the adequacy of a study and protective measures proposed (#30: 30T-76044).

In 1977, when Regional Council reviewed the functions of E.E.A.C. and approved procedures for the Committee, it provided for Robert Dorney, one member of E.E.A.C., to prepare a Sensitive Area Methodology. If found acceptable, it was to be adopted as a guideline for the preparation of assessments. [1] "Draft Impact assessment Guidelines for Development of Areas and Environs Designated as Environmentally Sensitive in the Waterloo Official Plan" were prepared. The document was initially reviewed by E.E.A.C. on November 9, 1977 but, for unclear reasons, the Guidelines never reached a stage of being formally recommended by E.E.A.C. to the Planning and Development Committee for adoption.

Nevertheless, the Guidelines were used by Dorney when he acted as a professional consultant to prepare an Environmental Impact Statement for #59: 30T-77037. The resulting 36 page Impact Statement was one of the more comprehensive statements received by the Region.

The most extensive Statement received by the Region was a 70 page document to accompany the Hidden Valley Community Plan, which intruded on E.S.P.A. 27. It culminated from a plethora of reports that were prepared previous to it, many of which essentially reworked the same environmental information into different formats. It resulted in information and maps that were difficult to correlate (Region of Waterloo, Planning and Development Committee Minutes May 19, 1981).

The problems encountered in both the preparation and review of Environmental Impact Statements point out a need for the Region to either a) Enforce the requirements of the Regional Official Policies Plan for the preparation of Environmental Impact Statements or b) Redefine the requirements of what an Environmental Impact Statement shall consist of. THIS REPORT RECOMMENDS THAT THE REQUIREMENTS FOR ENVIRONMENTAL IMPACT STATEMENTS BE REVIEWED AND REDEFINED. The requirements in the Regional Official Plan were originally

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[1] Despite the use of term 'assessment', the writer believes the guideline was intended to be used for documents that would qualify as Environmental Impact Statements.

set up to dovetail with those of the Provincial Environmental Assessment Act. When they were prepared in 1975, it was anticipated that the Provincial Act would eventually apply to municipal and private projects. While it is conceivable that a Regional or Area Municipal project in the future may require both an Environmental Assessment for the Province and an Environmental Impact Statement for the Region, it is unlikely that Provincial requirements will be applied to private projects in the foreseeable future.

Regional requirements for an Impact Statement should take into consideration that an Area Municipality may also require an environmental study (i.e. City of Kitchener). Every effort should be made to dovetail the requirements of both reports.

Whether the Region chooses to enforce the present requirements, or develop a new set of requirements, A HANDBOOK SHOULD BE DEVELOPED TO AID PROJECT APPLICANTS AND CONSULTANTS IN THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS. IT SHOULD PARTICULARLY ENCOURAGE THE USE OF A STANDARDIZED FORMAT. This could help ensure that adequate attention is given to all requirements and that written information can be easily correlated to maps or aerial photographs. Both the handbook and the resulting standardization of Impact Statements could simplify and improve the review process.

A handbook should contain information on the timing of submission of Environmental Impact Statements in the Plans Approval process, and the number of copies required of any materials to be reviewed by E.E.A.C.. In the past, E.E.A.C. meetings sometimes were scheduled so promptly after the submission of an Impact Statement and referral by the Planning and Development Committee that there was no lead time for E.E.A.C. members to review materials and prepare comments ahead of their meetings. On several occassions the materials to be reviewed were distributed at the E.E.A.C. meetings at which they were to be discussed. Maps, plans, and reports are expensive to reproduce. There have not always been sufficient numbers of materials to distribute to all E.E.A.C. members; a serious problem when sufficient lead time was not available to circulate materials among members.

If the Region believes there are situations where the full requirements for an E.I.S. need not be addressed, then it would be appropriate to create another title, standard requirements, and conditions for use for such environmental studies. Another alternative would be to create one category with various requirements for the Environmental Impact Statement being optional at the discretion of the professional consultant, E.E.A.C., the Planning and Development Department, or the Planning and Development Committee. Again, the conditions under which certain requirements would be optional should be clearly identified.

4.8 Grand River Conservation Authority Fill Permits

For many areas in the Region, as described by Ontario regulation 356/74, landowners within the areas must apply for a permit from the Grand River Conservation Authority before they can carry out works requiring fill, construction or any alteration to waterways. Many of these areas overlap E.S.P.A.s. The Environmental Policy does not set out policy statements to protect E.S.P.A.s from the types of activities that require Conservation Authority permits. While it may be desirable for the Conservation Authority to respect regional objectives for E.S.P.A.s and incorporate recommendations from the Region into conditions of approval of a permit, the Authority is not legally bound to do so.

Opportunities for the Region to comment on permit applications related to E.S.P.A.s have been sporadic. At one point, E.E.A.C. suggested that all permit applications be circulated to E.E.A.C. to allow the Committee to flag certain situations. Bill Thomson, the Commissioner of Planning and Development, pursued the idea with the Conservation Authority but was unable to implement the procedure (E.E.A.C. Minutes Oct. 12, Nov. 9, 1977). In 1978, the Authority agreed to circulate all applications pertaining to lands contiguous to or within an E.S.P.A. to regional planning staff for comment (Grand River Conservation Authority 1978). The procedure was initiated on a trial basis and ended without notice. The Authority showed concern throughout 1977 and 1978 for E.S.P.A. objectives; examples exist where the Executive Committee refused permits primarily on the basis that they would be detrimental to E.S.P.A.s (i.e. 39: Permit 94/78). In 1979 the Authority determined that it could not enforce conditions related to E.S.P.A.s in its permit decisions. It expressed concern that the regulation respecting permits did not enable it to base decisions on the policies of an official plan and that, in the event of an appeal, the Minister of

Natural Resources would not be able to uphold a permit refused on that basis.

At present, objectives of the Grand River Conservation Authority, regarding the application of its regulations for permits, do not cover the regional objectives of E.S.P.A. designations, with the exception of maintaining certain hydrological functions. The objectives of E.S.P.A. designations are essentially to preserve the most significant, natural areas in the Region for the protection of flora, fauna, landscape features and a range of ecological functions. The Conservation Authority objectives for permits are oriented towards protecting humans from economic and life-threatening hazards of floods, erosion, and pollution. IT IS RECOMMENDED THAT THE REGIONAL MUNICIPALITY OF WATERLOO APPROACH THE GRAND RIVER CONSERVATION AUTHORITY TO RECOGNIZE E.S.P.A.s IN ITS OBJECTIVES FOR GRANTING PERMITS FOR FILL, CONSTRUCTION AND ALTERATION TO WATERWAYS.

4.9 Conclusions

In the vast majority of cases for official plan amendments, and subdivisions, the processes to provide protective measures for an E.S.P.A. have fit smoothly into the regular planning process.

The R.O.P.P. did not set out a clear process for accommodating E.S.P.A. concerns in land severance and variance decisions and efficient procedural details to apply Environmental Policy in this area remains to be worked out. No E.I.S. has been carried out for any severance or variance application, as per Policy 13.31, though, in a few cases, Regional concerns for the E.S.P.A. have influenced changes in proposals.

Although the R.O.P.P. does not specifically require an E.I.S. for proposed extractive activities, they have been accommodated in the normal approval process through a good working relationship between the Ministry of Natural Resources and the Region.

Procedures and co-operation to accommodate E.S.P.A. concerns in applications for fill, construction and alterations permits made to the Grand River Conservation Authority have not been consistent between the Authority and the Region.

In general, the largest effect of the Environmental Policy has been to influence more environmentally-sensitive designs of projects in or near some of the E.S.P.A.s.

Few delays to projects could be attributed to the requirements associated with the E.S.P.A. status of lands. While a few small-scale projects have been denied on the basis of an E.S.P.A. status, the vast majority of proposals that did not proceed in or contiguous to an E.S.P.A. were held back for a multitude of reasons unrelated to the E.S.P.A.

Several E.S.P.A. boundaries have been established through environmental assessments or impact statements. Many have reduced the size of the E.S.P.A.. Rather than more precisely establishing a boundary, the procedure (as per Policy 13.21) is often viewed as redefining a boundary.

The fact that policy for E.S.P.A.s has proved to provide some measure of protection in several examples, lands credibility for the policy. However, a number of problems were also documented. They relate primarily to inconsistencies in applications of the policy statements, stemming from uncertainties created in the wording in the R.O.P.P.. Many of these are procedural details that can be worked out within the framework of existing policies. Others, the Region may want to further evaluate and consider resolving through changes to the R.O.P.P.

Issues regarding an E.I.S. are the major concern, particularly consistency in application and content.

Many activities not addressed by the R.O.P.P. may impact upon E.S.P.A.s, including implementation plans, the granting of Conservation Authority permits, woodlot management for commercial purposes under Ministry of Natural Resources guidelines, and activities carried out under existing zoning by-laws. These could not be dealt with adequately in this study and require further investigation.

Again, it is emphasized that this study has evaluated the implementation of policies from an operational viewpoint. It does not substitute for field study necessary to determine the physical, ecological impacts on the E.S.P.A.s.

APPENDIX A

CRITERIA FOR ENVIRONMENTALLY SENSITIVE POLICY AREAS

All Environmentally Sensitive Policy Areas meet one or more of the following criteria*:

(a) the occurrence of significant rare or endangered indigenous species within the designated area;

(b) the identification of plant and/or animal associations and/or landforms which are unusual or of high quality regionally, provincially or nationally;

(c) the classification of the area as one which is large and undisturbed thereby potentially affording a sheltered habitat for species which are intolerant of human disturbance;

(d) the classification of the area as one which is unique with limited representation in the Region or a small remnant of once larger habitats which have virtually disappeared;

(e) the classification of the area as one containing an unusual diversity of plant and animal communities due to a variety of geomorphological features, soils, water and micro-climatic effects;

(f) the identification of the area as one which provides a linking system of undisturbed forest for the movement of wildlife over a considerable distance;

(g) the performance of the area in serving a vital ecological function, such as maintaining the hydrological balance over a widespread area acting as a natural water storage or recharge area; or

(h) the recognition of the area as one demonstrating any of the above qualities but suffering a reduction of its uniqueness or rareness by the intrusion of human activities.

* Criteria form part of Policy 31, Chapter 13, Regional Official Policies Plan.

APPENDIX B

ACTIVITY RECORD FORMS

AND

CASE STUDIES

LIST OF E.S.P.A. ACTIVITY RECORD FORMS IN APPENDIX B

Page Number	E.S.P.A.: Application
B-2	6: A-20-78
B-3	10: Preliminary Subdivision Plan
B-4	10: B 299/76
B-5	10: B 42/77 and 43/77
B-6	10: B 134/77
B-7	10: B 135/77
B-8	10: B 136/77
B-9	10: Z-19-77
B-11	10: B 245/78
B-12	10: By-law 1175 Amendment
B-14	10: B 105/81
B-15	22: By-law 1312
B-17	25: 30T-79003
B-19	29: 30T-79025; By-law 80-126
B-24	32: (30T-76011) R.P. 1424
B-26	32: (30T-80028) R.P. 1513; 59/80/0
B-28	36: B 376/76, 377/76, 240/80, 241/80; Grand River Conservation Authority Permit 167/76; By-law 1079
B-30	41: 30T-77012
B-32	41: 30T-80011
B-35	45: By-law 307/77 (348/78)
B-36	55: By-law 237/76
B-38	58: Fill Pond
B-40	58: Miniature Golf Course
B-41	61: 30T-79032

B-2

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME St. Clements Sphagnum Bog NO. 6

PROPOSAL

TYPE and REFERENCE NO.

A-20-78 variance for relief of minimum frontage and lot area requirements to construct shed as accessory use (for storage of farm implements).

LOCATION

- Township of Wellesley
- E.S.P.A. surrounds subject land.

SIZE

☐ INCLUDES ALL OR PART OF E.S.P.A.
☒ ADJACENT TO E.S.P.A.

OWNER

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

Regional Planning staff recommended approval to the Committee of Adjustment, Township of Wellesley, subject to a condition that the applicant submit a site plan for approval by the Regional Planning and Development Department prior to the Secretary-Treasurer of Wellesley certifying the Committee of Adjustment decision.

Regional concerns: 1) to ensure shed has no detrimental impact on E.S.P.A.. 2) recommend care be taken in servicing equipment stored in shed, to avoid infiltration of contaminants into E.S.P.A.

Either an Environmental Impact Statement or waiver of same should have been carried out (but was not) unless it is argued that a variance for the purpose of a storage shed does not constitute a change in the legal use of land and buildings or that an Environmental Impact Statement is not required for proposals on lands contiguous to E.S.P.A.s.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.	LOCATION
Preliminary proposals for residential subdivision	Part Lot 2, Conc. 111, Block B, Twp. of Wilmot - E. side of lake
SIZE	☒ INCLUDES ALL OR PART OF E.S.P.A. ☐ ADJACENT TO E.S.P.A.
OWNER Albert F. M. Wilson	CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT		ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN
April 28, 1976		☐ PREPARED
May 12, 1976		☐ WAIVED
		☒ NOT APPLICABLE

SUMMARY

During 1975 and 1976, the owner carried out discussions with Twp. and Regional Officials concerning plans for residential subdivision use of his property. In 1975, Regional staff, assisted by a group of Experience '75 students, had prepared a short environmental assessment of the property to explain the E.S.P.A. classification to the owner.

On April 28, 1976 both the Region and Township sought technical guidance and environmental comments from E.E.A.C. on the expected subdivision plan. The discussion was deferred to the May 12, 1976 meeting due to low attendance. Meanwhile, information available was sent to all members to review. At the second meeting, basic concerns about further human intrusion were varied but the committee found it was unable to make definitive statements without more information.

B-4

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO

B-299/76 Application for consent to convey land as a lot extension

to retain: approx. 20 ha. (50 A.)
to sever: approx. 2.07 ha. (5.171 Acres)

SIZE

LOCATION

Part Lot 2, Conc. 111, Block B, Twp. of Wilmot

To convey Parts of 18, 19 (subject to r.o.w.), 25 to be merged with Parts of 26, 27, 28 of Plan S8R - 1536
-E. side of Lake

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER

Albert F. M. Wilson

CONSULTANT(S)

Mr. J. Guy (solicitor)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

This was to be a conveyance from the applicant to his wife. No development was proposed.

Residents of the Sunfish Lake Property Owner's Assoc., the Twp. and the Region objected.

The Property Owner's Assoc. was concerned about the division of land with uncertainty about what would be done with the parts. It wanted assurance that the land holdings resulting from the severance would not endanger the quality of the unique lake and surrounding environment. The solicitor for the applicant suggested an E.I.S. could be a condition of approval. The Assoc. was negotiating to purchase land but the applicant had refused $65,000.00 which the Assoc. offered based on a real estate appraisal.

On July 14, 1976 the Land Division Committee refused the application for the following reasons: 1) it contravened Zoning By-law #1617 and therefore, the R.O.P.P. by creating a lot to be retained without public road frontage. 2) the hazard land designation in the area Official Plan discouraged urban type uses and 3) the R.O.P.P. designated the area as an "Environmental Protection Area ... which would indicate that there are unique features of this land which should be preserved or at least protected from the harmful effects of urban type intrusions" (Regional comments and L.D.C. Minutes).

An appeal by the applicant was withdrawn prior to the O.M.B. hearing.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.	LOCATION
B 42/77 and B 43/77 Applications for consent to convey lands as lot extensions.	Plan 58R - 1917 - On W. and N.W. edge of lake
SIZE	☒ INCLUDES ALL OR PART OF E.S.P.A. ☐ ADJACENT TO E.S.P.A.
OWNER John O. Beynon and Eric Frank Dietz	CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT		ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN
None		☐ PREPARED
		☐ WAIVED
		☒ NOT APPLICABLE

SUMMARY

It was discovered that a 1968 division of land into 3 parcels fronting on Sunfish Lake did not put property boundaries in the intended place.

Beynon was allowed to convey a strip of land to Dietz and Dietz was allowed to convey a strip of land to Beynon. The property boundary then followed a creek as a natural divider, as was originally intended.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.

B-134/77 Application for consent

to sever:

SIZE APPROX. 20.4 ha. (51A.)

LOCATION

Part lot 2, Conc. 111, Block B, Twp. of Wilmot
(Parts of 13,3,9,15,16,4,1 of Plan 58R-1536)

- E. side of lake.

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER
Albert F. M. Wilson

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

- ☐ PREPARED
- ☐ WAIVED
- ☐ NOT APPLICABLE

SUMMARY

This was an application to convey seven parcels of land to Jack G. Hutchison 'in trust' for the Sunfish Lake Property Owners' Assoc. The offer to purchase by the Association was the result of negotiations stemming from earlier attempts by Albert Wilson to sub-divide the property and the concern by other residents for maintaining the character and the environmental quality of the area.

The severance was approved by the Land Division Committee (subject to receiving a minor variance if necessary) and the property sold to the Association. It is anticipated that it will remain in a natural state for private recreation.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.
B 135/77 Application for consent

LOCATION
Part Lot 2, Conc. 111, Block B, Twp. of Wilmot
(between Parts of 10, 8, 12, and 11 plus a r.o.w. over and along parts of 10,9,2, and an interest in common with others in Part 12 of Plan 58R-1536.

-E. side of Lake

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

SIZE approx. 1.6 ha.

OWNER
Albert F. M. Wilson

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

This was an application to convey a lot and r.o.w. to Eric and Barbara Hymmen. Essentially it was to give clear title to the owners who had occupied the property since 1957.

As no objections were raised, it was approved by the L.D.C.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.
B 136/77 Application for consent

to sever:

SIZE approx. 1.8 ha. (4.549 A)

LOCATION
Part lot 2, Conc. 111, Block B, Twp. of Wilmot
To convey Part of 18 as a lot extension to Parts of 26, 27, 28 of Plan 58R-1536.

- E. side of lake

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER
Albert F. M. Wilson

CONSULTANT(S)
Mr. J. Guy (solicitor)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

The applicant wished to create two lots. One would have frontage on Twp. Road 2 with the intention of building a single family permanent residence. The other lot, with an existing cottage, would be immediately to the west and fronting on Sunfish Lake. It would have access to Twp. Road 2 via a registered r.o.w.

The E.S.P.A. designation in both the Area and Regional Official Plans were noted but no environmental issues were addressed. However, being part of a G.R.C.A. regulated area, the properties would have required approval from the Authority for any developments.

The Region recommended that the severance be refused because the creation of a lot without public road frontage contravened the zoning. The L.D.C. approved the application subject to a minor variance being received. The Region successfully appealed on the basis that resolution required a full zoning amendment, not C. of A. action (O.M.B. April 12, 1978).

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.
Z-19-77 Application for zoning amendment to permit a lot without public road frontage.

Microfilm #25

LOCATION
Part lot 2, Conc. 111, Block B, Twp. of Wilmot
(Part 23, 24, 25 of Plan 58R-1536)

- E. side of Lake

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

SIZE

OWNER
Albert F. M. Wilson

CONSULTANT(S)
Mr. J. Guy (solicitor)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

- ☐ PREPARED
- ☐ WAIVED
- ☐ NOT APPLICABLE

SUMMARY

This zone change was required to resolve Regional objections to the land severance requested in B136/77. If passed, it would allow the applicant to rebuild or remodel a cottage to a permanent single family residence on a lot without public road frontage. It would also permit a permanent residence to be constructed on a vacant lot with public road frontage. Being within a G.R.C.A. regulated area, it is expected that permits would have been needed from the G.R.C.A. for construction.

Passing of this amendment was expected to stimulate other similar applications. Therefore, the Region insisted the Area Municipality do a comprehensive study of planning issues in the entire Sunfish Lake area if it approved the zone change.

The requirement for an E.I.S., pertaining to the consequences of the zone change, was not identified during initial Regional comments on the application.

Wilmot did not feel it could carry out the broad study of Sunfish Lake. On Sept. 26, 1977 Wilmot Planning Committee passed a resolution that it would not consider further development at Sunfish Lake through zone changes that would create additional lots without public road frontage. In the case of this applicant, it

....2

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

SUMMARY CONT'D. Zoning By-law Z-19/77

was prepared to accept an amended application if a request was made to permit one permanent dwelling plus one seasonal cottage on the single parcel without a severance.

Subsequently the applicant submitted B-245/78 as an alternative way to sever the land.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.
B245/78 Application for consent to convey land as a lot extension.

to sever:

SIZE .60 ha. (1.476 A.)

LOCATION
Part Lot 2, Conc. 111, Block B Twp. of Wilmot.
Parts of 23,24 as lot extension to Parts of 26,27,28 of Plan 58R - 1536 (subject to r.o.w. over 24).
- E side of Lake.

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER
Albert F.M. Wilson

CONSULTANT(S)
Mr. J. Guy (solicitor)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

- ☐ PREPARED
- ☐ WAIVED
- ☐ NOT APPLICABLE

SUMMARY

Subsequent to the Regional objection that B136/77 would create a lot without public road frontage and the Twp's. refusal to change the zoning to resolve the objection, B245/78 was presented as an alternative way of dividing the applicant's land.

With no objections, on July 12,1978, the Land Division Committee approved the application to sever land fronting the lake and containing a cottage on the condition that it be merged with adjacent vacant land owned by the applicant's wife. The proposed use of the retained land fronting on Twp. Rd. #2 was for a permanent single family residence.

Although the E.S.P.A. designation in both the Area and Regional Official Plans were noted, no environmental concerns or requirements were brought up. However, the properties are part of the Laurel Creek headwaters, a G.R.C.A. regulated area, requiring G.R.C.A. approval for any development or alterations to the land or water.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.
1978 - Application for zoning amendment to Section 6.4 of By-law 1175 to permit development without public road frontage.

LOCATION
Part Lot 2, Conc. 111, Block B, Plan 58R-1917, Twp. of Wilmot.
- on N.W. corner of lake
- All or large portion is within E.S.P.A.

SIZE approx 1.2 ha. (3 A.)

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER
John, Thomas, & Murray Beynon

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

In June 1978, Beynons proposed construction of a winterized cottage with access to Twp. Rd. 2 via a private r.o.w.

The property was zoned agricultural and designated in the Wilmot draft O.P. as partly rural, permitting limited development, and partly hazard, prohibiting development without approval from G.R.C.A. or Wilmot Council.

As headwaters of Laurel Creek, the property falls within a G.R.C.A. regulated area requiring a permit for any alterations to land or watercourses.

Since all or most of the property is within the E.S.P.A., the R.O.P.P. requires an E.I.S. prior to approval of a zoning amendment (Pol. 13.31). Regional staff were familiar with Sunfish Lake, having commented on other proposals in the area. Comments to the Twp. noted the lot is situated within a mixed, deciduous forest constituting one of the main areas of ecological significance. It contains rare plants, birds, and amphibians.

On the positive side, a residence on the land would complete development on the S.W. side of the lake. It would create only one additional residence on a private r.o.w. which 6 others use, 5 of whom also do not abut a public street.

....2

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Zoning By-law 1175 (cont'd) E.S.P.A. #10

SUMMARY CONT'D.

In September 1978, Wilmot Twp. regused the zoning amendment based on non-conformance to the zoning, its draft official plan and the R. O. P. P. at least until a Settlement Plan for the Sunfish Lake area is adopted.

As of July 1981, preparation of a settlement Plan, and an E.I.S. for the same was being undertaken by the local residents' association.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Sunfish Lake NO. 10

PROPOSAL

TYPE and REFERENCE NO.
B 105/81 Application for consent to convey land as a lot extension.

to retain: 1.56 ha. (3.9A)

SIZE to sever: .44 ha. (1.1 A.)

LOCATION
Part Lot 1, Conc. 111, Block B, Twp. of Wilmot.

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER
Donald and Naureen Brodie

CONSULTANT(S)
Mr. J. G. McGibbon, Q.C. (solicitor)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

The applicants wished to sever land to convey to the adjacent owners, Ian and Dorothy Cowles. This would give the purchasers ownership of the property in front of their home and also give road frontage on Twp. Rd. #2 to an otherwise land-locked property.

With no objections, on April 15, 1981, the Land Division Committee approved the application.

G.R.C.A. had noted the E.S.P.A. status in the R.O.P.P. and that since the property was within a G.R.C.A. regulated area permits would be required for any alterations or improvements to the land.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Kossuth Bog NO. 22

PROPOSAL

TYPE and REFERENCE NO.
Zoning By-law 1312 to amend By-law 1103.

- From Agricultural to Institutional.

LOCATION
Part Lot 101, R.P. 58R-3208, City of Cambridge, S.W. corner of Regional Road 31 and Speedsville Road.

- Property extends southwards into northern part of E.S.P.A.

SIZE

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER
293486 Ontario Ltd.
(Cambridge Country Manor)

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

- ☐ PREPARED
- ☐ WAIVED
- ☐ NOT APPLICABLE

SUMMARY

Cambridge Country Manor, Senior Citizen home, was legally erected under former Waterloo Township By-law 878A in 1975. The owner wished to become a conforming use to facilitate future mortgaging and permit expansion of the manor. Regional comments to the land surveyor indicated that the E.S.P.A. was generally delineated by the tree line and included a small pond at the S.E. corner of the property. The Region recommended the subject land for rezoning should be 25' away from the E.S.P.A.

Since the zone change was for an existing situation, Cambridge did not pre-circulate By-law 1312 before passing it on Dec. 18, 1978.

The Region noted during circulation that E.S.P.A. concerns were not accounted for. It offered alternatives: 1) Prepare E.I.S. for review by E.E.A.C. 2) Exclude E.S.P.A. from by-law and provide location of septic tanks and tile bed to Region or 3) Amend By-law to impose a limit to buildings and structures, based on E.S.P.A. Cambridge suggested a fourth alternative that was accepted by the Region: that a development agreement between the applicant and the City be approved by the Region and registered on title prior to the Region recommending approval of the By-law to the Ontario Municipal Board. The agreement would include a detailed site plan

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Zoning By-law 1312 E.S.P.A. NO. 22

SUMMARY CONT'D.

to ensure all facilities were a minimum of 25 feet away from the E.S.P.A. and sewage facilities far enough to prevent detrimental impacts on the E.S.P.A. This gave the Area Municipality responsibility for regulation by ensuring the issuance of any building permit is in conformance with the agreement.

As of July 1981, By-law 1312 had not yet received O.M.B. approval due to non-E.S.P.A.-related issues.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Lackner Woods NO. 25

PROPOSAL

TYPE and REFERENCE NO.

30T-79003 Residential Subdivision

LOCATION

- S of proposed Ottawa St. Extension
- W of proposed Lackner Blvd.
- NW of E.S.P.A. 25

☐ INCLUDES ALL OR PART OF E.S.P.A.
☑ ADJACENT TO E.S.P.A.

SIZE

OWNER
Parkwood Developments Ltd.

CONSULTANT(S) R. R. Higgins and Associates Limited.

ACTION

DATES of E.E.A.C. INVOLVEMENT

Sept. 10, 1980	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☒ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY The E.S.P.A. designation of Lackner Woods appears to have influenced the design of Parkwood Subdivision, particularly the storm water management system.

Environmental assessments previous to the application for Parkwood Subdivision had been undertaken for Lackner Woods:

Bruce A. Brown Associates, Feb. 7, 1977. "Environmental Assessment -- Lackner Woods, Grand River South Community, City of Kitchener."

Regional Municipality of Waterloo, May 28, 1979. "Environmental Assessment of Proposed East Side Arterial, City of Kitchener" File 18/16/10. (Prepared for the Route Location and Feasibility Study of Lackner Blvd.)

The latter one was reviewed by E.E.A.C. July 25, 1979 but neither were reviewed in connection with the Parkwood Subdivision proposal. E.E.A.C. accepted an ad hoc report on Environmental Impact and Construction Management of Storm Water Detention system as an E.I.S. pursuant to the R.O.P.P., Pol. 13.31, although the report did not follow the requirements for an E.I.S. set out by Pol. 13.31. E.E.A.C. also recommended implementation of the report be made a condition of Draft Approval of the subdivision.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME 30T-79003 (cont'd.) E.S.P.A. NO 25

SUMMARY CONT'D.

Early in the proposal (1979) consultants negotiated with Regional Planning staff for a boundary change in the E.S.P.A. to accommodate a proposal for a high school. Staff maintained that more information was needed but the proposal was not pursued.

The applicant was advised that approval of the development in principle was required from the City prior to submission of an E.I.S. being referred to E.E.A.C.. The proposal was delayed until the Grand River South (G.R.S.) Community Plan was completed. In June, 1980 the Draft Plan was revised to conform to the G.R.S. Community Plan and to approved alignments for Lackner Blvd. and the Ottawa Street extension.

A storm water management proposal in early 1979 had utilized the wetland area of Lackner Woods as a detention area. This was changed due to anticipated opposition to the construction of an earth berm and other structures within the E.S.P.A.

A revised storm water management plan located the detention area outside the E.S.P.A. but proposed discharge into the E.S.P.A. via Lackner Creek. R. R. Higgins and Associates submitted a 14 page report, "Environmental Impact and Construction Management of Storm Water Detention System for Parkwood Subdivision" Aug. 1980. It briefly suggested alternative methods of handling storm water and the E.S.P.A.. It outlined measures to control erosion, siltation and water quality and recommended conditions for Draft Plan approval of Parkwood Subdivision: phased development; grading and stripping as per grading and tree saving plans, temporary detention/infiltration areas during Phase 1 construction, and dikes and berms to control run-off.

The report was reviewed by E.E.A.C. during a heavy agenda on September 10, 1980, following an oral presentation by the consulting firm. With little discussion, E.E.A.C. passed a motion worded as per a recommendation in the report, that E.E.A.C. "advise the Regional Planning and Development Committee of its approval of the impact statement pursuant to Policy #31 of Chapter 13 of the R.O.P.P." and "that the environmental impact and construction management of storm water detention system ... be made part of the condition of Draft Approval ..." A quorum of 10 E.E.A.C. members was not present. With 1 conflict declared by the consultant, the number of voters was reduced to 8.

Subsequently, (Jan. 1981), the Regional Engineering Department reviewed and agreed to the storm drainage report, noting that no adverse effect would occur in the E.S.P.A.

As of July, 1981, Draft Approval of the subdivision is awaiting further consideration by the City of Kitchener in conjunction with other development proposals in the vicinity.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Steckle Woods NO. 29

PROPOSAL

TYPE and REFERENCE NO.

30T-79025 Draft Plan of Subdivision to extend Trillium Industrial Park Westerly

59/79/S (By-law 80-126) Zone Change Application from Twp. Agricultural to Industrial Park (M3).

LOCATION

Part of Bechtel's Tract and Part 36, 58R-1111.

- Bounded by Strasburg Rd. (to be realigned) on the W; Bleams Rd. on the N.; Steckle Woods and existing Trillium Industrial Park on the E..

SIZE 45 ha. (111A.)

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER Paul Tuerr Construction Ltd. and Community Expansion Inc.

CONSULTANT(S)

R.R. Higgins and Associates Ltd.

ACTION

DATES of E.E.A.C. INVOLVEMENT

Dec. 12, 1979	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN:

☐ PREPARED
☒ WAIVED
☐ NOT APPLICABLE

SUMMARY

Proposals in 1976 were considered premature. Further planning studies by the developers and Kitchener's desire for industrial land encouraged processing of proposals submitted in 1979.

The consultant to the developer prepared an environmental assessment. It defined the west boundary of the E.S.P.A. as the base of the slope created by previous gravel extraction. Review by E.E.A.C. concurred with the boundary and a recommendation that the requirement for an Environmental Impact Statement could be waived. Both decisions were approved through the formal political process.

The subject lands infringed 10-15 metres into the W and SW wooded edge of the E.S.P.A. (3 lots). Protective measures in both City and Regional conditions of draft approval of the subdivision and in a notwithstanding clause of the zoning by-law amendment included:
landscaping as the only permitted use within the E.S.P.A. boundary; rehabilitation of slopes; notices on deeds of the infringing lots that slopes were to be

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME 30T-79025 (cont'd.) E.S.P.A. NO. 29

SUMMARY CONT'D

maintained in perpetuity according to a management plan; a 15 foot setback of any buildings from the base of the slope (E.S.P.A. boundary).

A plan for 52 industrial lots, and 15 blocks for roads, reserves, and storm water management was given draft approval April 10, 1980. Objections, not related to the E.S.P.A., referred the zoning by-law to the Ontario Municipal Board.

Steckle Woods is approximately 33 Acres of woodland, acquired in the late 60's by the City of Kitchener through purchase and donation and used since as a natural, public park. It has been recognized as a regionally significant area by the Ministry of Natural Resources and the International Biological Programme. In the mid-70's the Region of Waterloo designated it as an E.S.P.A. particularly for its large, fine tree specimens, locally rare flora, and its spectacular trillium display in the spring.

It is bounded by roads to the north and east and Trillium Industrial Park to the south. Gravel has been excavated up to the wooded west and southwest edges leaving exposed, eroding slopes and some tree damage at the edge of Steckle Woods.

In 1976, Paul Tuerr Construction Limited proposed a westerly extension to the existing Trillium Industrial Park that would cover agricultural lands and the gravel pit immediately adjacent to the west edge of Steckle Woods; it was considered premature.

In response to a request by the City of Kitchener that development in the area required a block plan, Paul Tuerr Construction Limited and Community Expansion Inc. came back in 1978 with a consultant's study (R.R. Higgins and Associates Ltd.) covering approximately 800 acres of potential industrial land on both sides of Strasburg Road. The study failed to acknowledge the environmental significance of Steckle Woods and suggest protective measures. The Region's Planning Department recommended to the City that protective measures for the E.S.P.A. be considered at the time of a subdivision application (i.e. preventing encroachment into the woods, fencing by the subdivider adjacent to the E.S.P.A., erosion control at edge of woods, City acquisition of a suitable width of land to protect the slope and control erosion). Kitchener, feeling a shortage of industrial land, instructed its staff to proceed as soon as possible with necessary legal changes to permit industrial expansion on both sides of Strasburg Road.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME 30T-79025 (cont'd.) E.S.P.A. NO. 29

SUMMARY CONT'D.

In September 1979, consultants, R. R. Higgins and Associates Ltd., submitted a draft plan of subdivision (30T-79025) to the Region to circulate for comments. At the same time they submitted an application to the City of Kitchener to rezone land from Township Agricultural to Industrial Park. The subject land (45 hectare east of Strasburg Road) infringed 10 - 15 metres into the west and southwest wooded edge of the E.S.P.A.

In October 1979, Regional planning staff conducted a site inspection. Issues to be addressed relating to the E.S.P.A., were identified:

1) maintenance of the wooded edge to protect internal trees,
2) stabilization of slopes,
3) if grade levels were to be lowered, the effects on the slopes and water table, and
4) more precise definition of the boundary of the E.S.P.A.

Co-operative discussions on E.S.P.A. issues took place from the outset among Regional and City planning staff and consultants for the developers. To a large extent, protective measures for the E.S.P.A. were worked out verbally. Both Region and City planning departments indicated support for waiving the need for an Environmental Impact Statement if an environmental assessment proved sufficient.

In November, the developers' consultant drafted an environmental assessment to assist the Region in preparation of the same. It consisted of 6½ pages of text, copy of the Region's technical data sheet for Steckle Woods, supplemented by maps of the location and subdivision plan and profiles of proposed rehabilitation of slopes. The assessment was prepared from field investigation and existing information. It covered only the immediate western edge of the woodlot that overlapped the property line of the developers and, in assessing significance of the area, addressed only the criteria and species identified in the Region's technical data sheet. Though no significant species were found in the immediate area (field study was late in the season for assessing plant species), the edge of the woodlot was recognized, as previously pointed out by the the Region, as a stable margin for plant and animal life within the woodlot. The west boundary of the E.S.P.A. was recommended to be at the base of the slopes created by previous gravel extraction. Suggestions to protect the E.S.P.A. (referred to as a management plan) included grading and landscaping of the slopes (required anyway by Ministry of Natural

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME 30T-79025 (cont'd.) E.S.P.A. NO. 29

SUMMARY CONT'D.

Resources under the Pits and Quarries Control Act) and a building control line coincident with the E.S.P.A. boundary.

E.E.A.C. review the assessment in mid-December 1979 and agreed with the western boundary definition and recommendation to waive the requirement for an E.I.S. The boundary was subsequently recommended for approval by the Regional Planning and Development Committee and approved by Regional Council. The Committee and Council also voted to request City of Kitchener Council to waive the E.I.S. requirement. Kitchener planning staff and Planning and Development Committee recommended the same which Kitchener Council approved.

In February 1980, Kitchener Council recommended draft approval of the subdivision plan subject to conditions including protection for the E.S.P.A.:

- management and implementation plan for the slopes and fringe areas adjacent to sensitive area to be accepted by the Regional Municipality and the City Departments of Public Works and Parks and Recreation prior to building permits being issued for the 3 infringing lots. [1]

- notice to be placed in deed of lots infringing on E.S.P.A. that slopes adjacent to sensitive area to be maintained in perpetuity according to management plan.

- applicants to submit grading plans to Ministry of Natural Resources, Region and City for approval, rehabilitate pit to Ministry's satisfaction.

It also recommended approval of the amending zoning by-law, subject to a notwithstanding clause that also included protective measures for the E.S.P.A.:

- a 15 foot building setback from the base of the slope of the E.S.P.A. and

- restricted use to landscaping only between the base of the slope and wooded edge of the E.S.P.A.

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1 Note incorect wording in the conditions. The slopes had been defined as part of the E.S.P.A., not adjacent.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME 30T-79025 (cont'd) E.S.P.A. NO. 29

SUMMARY CONT'D.

Regional municipality of Waterloo conditions to be satisfied prior to final approval of the subdivision plan were essentially the same as Kitchener's requirements except for the notice on deeds.

Minor revisions not affecting the E.S.P.A. were made to the Plan. Draft approval was granted by the Commissioner of Planning and Development of the Region in April 1980 for 52 industrial lots and 15 blocks for roads, reserves, and storm water management.

Due to objections unrelated to the E.S.P.A., the zoning amendment was referred to the Ontario Municipal Board and, as of July 1981, had not yet been approved.

SUMMARY

The draft plan of subdivision took seven months from submission to draft approval. A regional site inspection to establish considerations for the E.S.P.A. was carried out early in the process. An assessment, requiring minimal field work, was prepared by the applicants and considered by E.E.A.C. mid-way through the process.

A number of agencies commented on the plan but no comments pertained to the E.S.P.A. status.

Conditions respecting the E.S.P.A. were outlined by both the City and Region and included in draft approval of the subdivision and as a recommended notwithstanding clause of the zoning amendment, but precise details for management of the area within the E.S.P.A. were left to be worked out prior to final approval.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Oregon Pond Woods NO. 32

PROPOSAL

TYPE and REFERENCE NO.

(30T-76011) R.P. 1424

Subdivision of Block C, R.P. 1373 Old Carriage Drive, Pioneer Park.

LOCATION

- Immediately adjacent to and including a small part of N. edge of Oregon Pond Woods.

SIZE

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER

Major Holdings and Developments Limited

CONSULTANT(S)

Matthew H. Kilpatrick Associates Limited.

ACTION

DATES of E.E.A.C. INVOLVEMENT

Sept. 22, 1976	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☒ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

The proposal for 75 housing units (1.3 hectares of townhouses and 13 lots for 26 semi-detached dwellings) replaced a higher density plan for 250 units, approved and registered in 1970. This was at the suggestion of the Regional Planning and Development Department as requested by local residents across Schneider Creek.

A site visit between the consultant and Regional Planning staff (Mark Stagg) in July 1976, determined an E.I.S. was required. Members of the K-W Naturalists Club also visited the site, forwarding their comments to the Region. They considered the site to have some fine trees and attractive, but not outstanding, flora. The Region forwarded this information to the developer.

A 4 page E.I.S. was prepared by the developer and accepted by E.E.A.C. It briefly discussed the original and new proposal. The environmental assessment relied on the Region's technical data sheet for E.S.P.A. 32, supplemented by the Naturalists' more complete list of species.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Oregon Pond Woods (cont'd) E.S.P.A. NO. 32

SUMMARY CONT'D.

Since the development company did not own most of the E.S.P.A. its measures for preservation related mainly to controlling access to the area during and after construction, and to erosion control.

Measures recommended in the E.I.S. were incorporated into a subdivider's agreement with the City and Region: the portion of the Plan within the E.S.P.A. would remain undeveloped and the woodlot within this area managed in accordance with a program approved by the Region; erosion and siltation control measures would be established prior to construction; all unpaved areas not to be used for building would be sodded to prevent erosion; the woodlot would be fenced to prevent encroachment and; a site plan would be approved by the City prior to development.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Oregon Pond Woods NO 32

PROPOSAL

TYPE and REFERENCE NO.	LOCATION
- 59/80/0 Application for zoning amendment. - (30T-80028) R.P. 1513 Re-subdivision of Old Carriage Drive, Pioneer Park	Block A, R.P. 1373 and Block A, R.P. 1424 (Block A, R.P. 1434 overlaps N. part of E.S.P.A.)
SIZE 3.99 hectares	☒ INCLUDES ALL OR PART OF E.S.P.A. ☐ ADJACENT TO E.S.P.A.
OWNER Major Holdings and Developments Ltd.	CONSULTANT(S) Proctor and Redfern Group

ACTION

DATES of E.E.A.C. INVOLVEMENT		ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN
None		☐ PREPARED
		☐ WAIVED
		☐ NOT APPLICABLE

SUMMARY

In August 1980, a report by Proctor and Redfern for the developer, on the proposed draft plan for 39 single family units, suggested the site no longer met the criteria of an E.S.P.A. It argued the pond had been filled, the woodlot altered and red-shouldered hawks no longer nested there. Grand River Conservation Authority suggested a proper environmental assessment be conducted by professionals to support the claims and to outline the effects of grading, drainage, and erosion on the E.S.P.A.

A four page E.I.S. had been accepted by E.E.A.C. in conjunction with the subdivision plan previously approved for the site in 1976 (R.P. 1424). At an October 30, 1980 meeting, representatives of City of Kitchener planning staff, G.R.C.A., and developer's consultant agreed to seek an opinion from E.E.A.C. as to whether a further E.I.S. was required. The issue did not go to E.E.A.C. as Regional planning staff determined, in Jan. 1981, that providing all conditions of the previous E.I.S. were applied to the new proposal (as the consultant had recommended), a new E.I.S. would not be required. It was felt the new proposal would not have a greater environmental impact than that previously

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Oregon Pond Woods E.S.P.A. NO. 32

SUMMARY CONT'D.

approved.

G.R.C.A. insisted on further information about storm water management to assess the impact of a detention facility on the E.S.P.A. and to consider whether an E.I.S. should be required for the storm water management area. In February 1981, the City Co-ordinating Committee waived the requirement for storm water management. By April 1981, all G.R.C.A. concerns were resolved and it recommended approval of both the zone change and subdivision, subject to its approving grading and drainage plans prior to registration of the subdivision plan.

In May 1981, Kitchener recommended approval of the zone change and subdivision subject to conditions of the earlier subdivision and additional conditions i.e. Offers of Purchase, Sale and Rental Agreements to include a statement of the City's intention to retain Block 40 as natural open space and not for active park use; measures to protect trees. In addition to the Plan encompassing a portion of E.S.P.A. 32, it encompassed an Ecologically Significant Area designated in the City Official Plan.

In summary, the E.S.P.A. per se, would not be developed. Measures to control access, grading, drainage, erosion and siltation would be implemented to help protect the E.S.P.A.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Junction of Speed and Grand Rivers NO 36

PROPOSAL

TYPE and REFERENCE NO.	LOCATION
B 376/76 and B 377/76 replaced by B 240/80 and B 241/80. Application for consent to create two new lots; G.R.C.A. Permit 167/76; Zone Change Application R6-77 (By-law 1079).	Part lot 53, R.P. 731 (Parts 3, 4 of Plan 67R-1042). - Fronting on east side of Fountain Street S. (Regional Road #28).
SIZE	☒ INCLUDES ALL OR PART OF E.S.P.A. ☐ ADJACENT TO E.S.P.A.
OWNER John Schropp Builder Ltd.	CONSULTANT(S) Hancock, Kidd & Charlton (Solicitors) - Fred Losee Ltd., (Professional Consulting Planners)

ACTION

DATES of E.E.A.C. INVOLVEMENT		ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN
Nov. 23, 1977		☒ PREPARED
		☐ WAIVED
		☐ NOT APPLICABLE

SUMMARY The site has single family dwellings to its north and west and open space to its south and east. The applicant's first applications to create two new lots (B 376 - B 377/76) were refused because the land was zoned open space and designated in the Cambridge Official Plan as hazard land.

G.R.C.A., under an apparent misunderstanding that the west portion of the property was zoned residential, issued Permit 167/76. It allowed sufficient filling to accomodate three out of five single family residences requested by the applicant. The filling slightly altered the location of the regional floodline, moving it closer to the Speed River. Cambridge then agreed to redesignate the lands above the new regional floodline from hazard land to residential (Oct. 1977). According to its Official Plan Sec. ii, 6.B(iv), an Official Plan Amendment is not required to redesignate hazard lands.

Cambridge also agreed to rezone a portion of the property from open space to single residential (R1) (By-law 1079 - Nov. 1977). It had been stated from the outset of the zoning application (R6-77) that the Region would require an E.I.S. A July 1977 site visit by planning staff had advised the consultant, Mr. Losee, on preparation of the E.I.S. The E.I.S. was found accurate and adequate by E.E.A.C. who

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Junction of Speed and Grand Rivers (cont'd) NO. 36

SUMMARY CONT'D.

stated it had no objections to the proposal. The immediate area of the site was felt to be already affected by other near development. Riverside Park was argued to be the most significant part of the E.S.P.A. for wintering waterfowl. The E.I.S., required by the Region prior to its recommending approval of the zoning by-law to the O.M.B., was approved by Regional Council on December 15, 1977. The O.M.B. approved the by-law July 31, 1980.

The rezoning and redesignation in the Cambridge Official Plan cleared the way for the approval of two re-applications for land severances (B 240 - 241/80) that divided the applicants land into three parcels for the construction of three houses (1980).

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Cedar Creek Spillway and Ayr Dam NO. 41

PROPOSAL

TYPE and REFERENCE NO.	LOCATION
30T-77012 Melair Industrial Development	Lot 4, R.P. 679, Part Lot 5, R.P. 680, Part Lots 32, 33, 34, 35, Conc. VIII, Township of North Dumfries. - Bounded by Greenfield Rd. to the North, Melair Dr. to the West and the C.P.R. tracks to the South East. - E.S.P.A. is S.E. of C.P.R. tracks
SIZE approx. 70 ha. (175-180 A.)	☐ INCLUDES ALL OR PART OF E.S.P.A. ☒ ADJACENT TO E.S.P.A.
OWNER Baycrest Consolidated Holdings Ltd.	CONSULTANT(S) The Kleinfeldt Group

ACTION

DATES of E.E.A.C. INVOLVEMENT		ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN
Feb. 9, 1977		☒ PREPARED
Mar. 9, 1977		☐ WAIVED
		☐ NOT APPLICABLE

SUMMARY

Part of the proposal was adjacent to a portion of E.S.P.A. 41 but separated by railway tracks. The R.O.P.P. was interpreted by the Region to require an E.I.S..

A 20 page E.I.S., prepared in January 1977, primarily addressed concerns expressed by the Region in preliminary comments to the consultant (Melair Industrial Development, Environmental Report). Following a general description of the development site, was a general description of the E.S.P.A. and its biophysical and Anthropocentric values. The most significant impacts were expected to be the discharge or drainage of increased storm water run-off, deicing salts, pesticides, and oil into the E.S.P.A. A drainage plan and management guidelines for the use of pesticides and fertilizers were suggested. The E.I.S. concluded that the industrial subdivision would not seriously threaten the E.S.P.A., but noted it would contribute to cumulative effects from other potential developments.

E.E.A.C. deferred its decision on February 9, 1977 pending revision of the E.I.S. to conform to requirements of the R.O.P.P. The main issue was the need to present alternative drainage and siltation control measures dependent on whether or not a possible

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Cedar Creek Spillway and Ayr Dam (cont'd) NO. 41

SUMMARY CONT'D.

road would be included in the Plan. E.E.A.C. also sought a legal opinion on whether the use of herbicides and pesticides could be controlled.

The revised E.I.S. (Feb. 25, 1977) was considered by E.E.A.C. on March 9, 1977. E.E.A.C. made recommendations for gravel extraction prior to development and that the E.I.S. serve as a basis for conditions of draft approval.

Only the proposed first phase of development for 7.5 ha (18.6 A) was draft approved later in the year. The portion of the subdivision proposal adjacent to the N.W. of the E.S.P.A. has subsequently changed ownership and remains unapproved and undeveloped, as of July 1981.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Cedar Creek Spillway and Ayr Dam NO. 41

PROPOSAL

TYPE and REFERENCE NO.

- 30T-80011 (formerly 30T-23717) Various revisions of plan for residential subdivision.
- G.R.C.A. Permit 68/80

LOCATION

Part Lots 27, 38 of R.P. 673

- immediately N. of E.S.P.A. boundary around the Mill Pond.

SIZE 5.123 ha.

☐ INCLUDES ALL OR PART OF E.S.P.A.
☒ ADJACENT TO E.S.P.A.

OWNER

K. Ostovar

CONSULTANT(S)

Marshall, Macklin, Monaghan Ltd.

ACTION

DATES of E.E.A.C. INVOLVEMENT

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

- ☐ PREPARED
- ☐ WAIVED
- ☐ NOT APPLICABLE

SUMMARY

Proposals for a subdivision were considered premature until 1980. A Plan was draft approved on November 19, 1980 for 53 single family lots, plus four blocks.

The need for an E.I.S. was considered and for undocumented reasons, determined not to be warranted. A formal waiver was not processed.

The main concerns of the Region for the E.S.P.A. duplicated those of the G.R.C.A. for storm water management and run-off of silts into the Mill Pond during construction. They were expressed in conditions of draft approval.

G.R.C.A. Permit 68/80 was granted, with no apparent input from the Region regarding impacts on the E.S.P.A., to permit use of the S.E. corner of the subdivision (adjacent to the E.S.P.A.) for storm water detention.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Cedar Creek Spillway and Ayr Dam (cont'd) NO. 41

SUMMARY CONT'D.

warranted in this case because it was noted by the Director of Planning at the time, that the area to the east and north of the E.S.P.A., while not designated, was at one time considered for designation and was believed to have a degree of sensitivity deserving of some consideration and protection.

Part of the non-designated area of concern was a wetland bush extending into the back portion of several of the proposed subdivision lots. The area is encompassed by the Cedar Creek - Roseville Source Regulated Area of the Grand River Conservation Authority. The Conservation Authority imposed conditions for site plans to detail existing and proposed grades, building location, and site drainage for each of the affected lots; soil reports for two lots where the suitability for foundations was questionable; and for a detailed storm water management report for the proposal. The Authority was particularly concerned with effects of the northwest to southeast drainage from the site towards the Mill Pond. A permit was required from, and granted by, the Conservation Authority to allow a block of land in the south end of the proposed subdivision, near the E.S.P.A., to be used for storm water detention. It appears the Region did not have any input to the permit. Conditions of the Township of North Dumfries, accompanying draft approval, included that concerns of the Conservation Authority be satisfied.

The Region recommended to the consultant for the developer that a contour map be prepared of the proposed subdivision land and of adjacent lands; that a perimeter berming system be designed and constructed to the satisfaction of the Region prior to the commencement of any works and that follow-up monitoring of the berming system be carried out. These were in response to review of a preliminary plan in 1979 and were not specifically stated as conditions of draft plan approval. They were possibly covered under Regional conditions requiring that prior to final approval, a report detailing measures to prevent construction silts from running into the E.S.P.A. be undertaken; the owner enter into agreement with the Region to implement measures from the report and; the various concerns of the Conservation Authority be satisfied.

In summary, the subdivision proposal was adjacent to a portion of an E.S.P.A. but neither an Environmental Impact Statement nor a waiving of the requirement for an Impact Statement was carried out in accordance with the interpreted requirements of the R.O.P.P.. Essentially, the Region only duplicated drainage concerns of the Conservation Authority in this case. A preliminary environmental assessment or a full impact statement may have illuminated concerns other than drainage for the E.S.P.A. or, at the very least, confirmed a precise boundary.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Cedar Creek Spillway and Ayr Dam (cont'd) NO. 41

SUMMARY CONT'D.

DISCUSSION

Cedar Creek Spillway and Ayr Dam is a lengthy E.S.P.A. noted particularly for the occurrence of significant rare or endangered indigenous species. At the extreme south-west lower reaches of Cedar Creek is a Mill Pond within the E.S.P.A. A 5.124 ha. piece of property immediately north of the E.S.P.A. boundaries around the Mill Pond has been the subject of proposals for a residential subdivision since 1973.

In 1973, a proposal for twenty-eight large single family lots (30T-23717) was considered premature. Preliminary plans in 1976 for fifty-five residential lots and in 1978 for sixty residential lots were again considered premature. In 1980 the concerns for prematurity were satisfied and Plan of Subdivision 30T-80011 was draft approved for fifty-three single family residential lots and four blocks, including one block for storm water detention purposes.

During review of the preliminary plan in 1976 the consultant to the developer was informed by planning staff of the Region that an Environmental Impact Statement could be required since the proposal was adjacent to the E.S.P.A. The consultant sought information from the Regional planning office about what environmental factors would have to be considered. The technical data sheet for the Cedar Creek Spillway and Ayr Dam notes this particular part of the E.S.P.A. as a wintering ground for hundreds of waterfowl, including a declining species. It also notes the occurrence of mink and of significant plant species without pinpointing specific locations within the E.S.P.A. Despite the data sheet, the Regional response was limited to the prevention of run-off of silts into the E.S.P.A. during construction and the proper handling of storm drainage, as concerns.

During a Regional review in early 1979, of a subsequent proposal, it was determined that an Environmental Impact Statement was not warranted in the formal sense. The reason(s) for this decision was not documented nor was a formal waiver of an impact statement recommended, as per the R.O.P.P. Policy 13.31. If a site visit was made, it was not documented.

Since original boundaries of the E.S.P.A.s were considered to be general in nature (Policy 13.21), it would appear to have been appropriate, at the very least, to carry out an environmental assessment (Policy 13.31) to more precisely define a boundary for the E.S.P.A. in this area. Such action was especially

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Little Turnbull Lake NO. 45

PROPOSAL

TYPE and REFERENCE NO.
Zoning By-law 307-77
to Amend By-law 1289;
Repealed and replaced by 348-78.

LOCATION
S ½ Lot 31, Conc. VII, Twp. of North Dumfries.
- Abutting W. side of Twp. Rd. 8; S. of, but not abutting E.S.P.A. 45; N. of, but not abutting E.S.P.A. 44
- Abutting S. side of farm lane

SIZE approx. 1.2 ha. (3A.)

☐ INCLUDES ALL OR PART OF E.S.P.A.
☒ ADJACENT TO E.S.P.A.

OWNER
John Louro

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT	
None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

The applicant owns a 40 ha. (100 A.) farm at the N.W. corner of Twp. Roads 5 and 8, extending between and including about 14.4 ha. (36 A.) of E.S.P.A. 44 and 1.6 ha (4 A.) of E.S.P.A. 45. A zoning amendment was proposed for a small portion of the farm to allow construction of an abattoir within an agricultural zone. The operation would use only livestock raised on the farm and solid wastes would be trucked away.

In November 1977, Regional planning staff made a site visit to determine any environmental concerns and the need for an E.I.S. This was after the area municipality passed the zone change, but prior to the Region recommending Ontario Municipal Board approval. The only impact identified was a potential draw-down on the water table of the E.S.P.A. s from a new well to be drilled. Since the operation was not expected to use significant amounts of water, an E.I.S. was not required.

The Region recommended O.M.B. approval of the by-law. Later, 307-77 was repealed and replaced to correct an error on the site plan and more clearly define 'abattoir'. 348-78 was approved by the O.M.B. July 6, 1978.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Orr's Lake NO 55

PROPOSAL

TYPE and REFERENCE NO.

Zoning by-law 237-76, to amend by-law 1289 with a notwithstanding clause and give exemption from by-law 73-76 to permit additional uses in an agricultural zone.

LOCATION

Part of N½ of lots 17,18, Conc. XI, Twp. of North Dumfries.
- S. of Regional Rd. 46.
- W. of E.S.P.A. 55 (NW of lake).

SIZE approx. 8.5 ha of 35 ha. property.

☐ INCLUDES ALL OR PART OF E.S.P.A.
☒ ADJACENT TO E.S.P.A.

OWNER Tullis Estates Ltd.
Operator: K-W Blair Readymix (1973) Ltd.

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☒ NOT APPLICABLE

SUMMARY

Approval of the proposal permitted concrete readymix production, production of precast concrete products, inside and outside storage for concrete production, and garage and storage facilities for cement trucks.

The original applications made in 1975 and another in April, 1976 covered the entire licenced area of an existing and operating gravel pit. Since the licenced area overlapped with E.S.P.A. 55, Regional planning staff offered two alternatives, in order of priority, for protection of the E.S.P.A.:1) a site plan as part of the zoning by-law amendment to indicate that the E.S.P.A. portion of the property being rezoned would be left in a natural state or 2) preparation of an E.I.S.

The applicant came back with revisions showing the proposed industrial activities restricted to the floor of the then excavated area of the pit. This set back the new operations a minimum of 107 m. (350') from the east limit of the property (approx. 73 m. (240') from the lake edge), so they did not quite abut the E.S.P.A. Since they could no longer infringe on the E.S.P.A., the Region did not require an E.I.S. There is no documentation that any specific potential impacts on the E.S.P.A. were ever considered.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Orr's Lake (cont'd.) NO. 55

SUMMARY CONT'D.

The by-law was passed by the Area Municipal Council on Sept. 20, 1976, recommended by the Region for approval on October 28, 1976, subject to non-E.S.P.A. - related conditions, and approved by the O.M.B. on January 26, 1978.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Gilholm Marsh NO. 58

PROPOSAL

TYPE and REFERENCE NO.
To Fill Pond

LOCATION
Part Lot 14, Conc. 11, Township of North Dumfries and part of City of Cambridge - off Regional Road 97.

SIZE

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER Kehare Investments Limited
Mr. Harold Hacking, President

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT	
None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☒ NOT APPLICABLE

SUMMARY In February, 1977 the applicant proposed filling in a pond to use lands as a park and recreation area. He applied for a fill permit from the G.R.C.A., but was advised that a permit was not needed as the subject lands were not covered by Ont. Reg. 356/74. However, the G.R.C.A. expressed concerns that improper filling could affect ground water of the surrounding area and part of the E.S.P.A.. After discussing the situation with the Regional Planning and Development Department, G.R.C.A. advised the applicant, in March 1977, that filling would contravene Policy 13.15 of the Regional Official Policies Plan. The applicant was advised the same thing on an office visit to the Planning and Development Department; since the placement of fill was not within the list of permitted uses in Policy 13.15, it would not be permitted.

The possibility of E.I.S. was discussed to establish if intrusion would be possible without serious impact. The applicant, however, was advised by Planning staff to first wait for results of environmental studies by the Ministry of Transportation and Communications in cooperation with the Regional Municipality, which would clarify the possibilities for filling and ensure that his plans were not in conflict with plans for a Hwy. 8 by-pass in that area.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Gilholm Marsh (cont'd.) NO. 58

SUMMARY CONT'D.

The interpretation that placement of fill was not permitted because it was not included in the list of Policy 13.15 is questionable if all other existing regulations would have permitted it. Furthermore, although an E.I.S. may have been desirable in this situation, it is questionable whether the Regional Municipality had the jurisdiction to require one.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Gilholm Marsh NO 58

PROPOSAL

TYPE and REFERENCE NO.

To develop a minature golf course, driving range and temporary service building and possible alteration to pond in S.E. corner of property.

LOCATION

Part Lot 14, Conc. 11, Township of North Dumfries and City of Cambridge - off Regional Road 97 - Lies between the 2 sections of E.S.P.A. 58 and overlaps about 1.6 ha. of the W. section, and about 3 - 4 ha. of the E. section.

SIZE 19.2 ha.

☒ INCLUDES ALL OR PART OF E.S.P.A.
☐ ADJACENT TO E.S.P.A.

OWNER

Jack and Joan Thornewell

CONSULTANT(S)

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

- ☐ PREPARED
- ☐ WAIVED
- ☒ NOT APPLICABLE

SUMMARY The applicant met in October, 1978 with both the City of Cambridge staff and Regional Planning staff to discuss plans. A few weeks later, Cambridge invited Regional comments on the applicants' proposal.

Since the proposed use conformed to present Zoning By-laws, Regional concerns, expressed to the Area Municipality, were limited to matters of an entrance permit, sign permit and sewage disposal system. The Region interpreted that it could not require an E.I.S.. In a separate letter to the applicant, the Region offered to assist in preparing a management plan to minimize negative ecological impacts if the applicant pursued the permitted development opportunities.

E.S.P.A. ACTIVITY RECORD

E.S.P.A. IDENTIFICATION

NAME Taylor's Lake (Beake Pond) NO. 61

PROPOSAL

TYPE and REFERENCE NO.
30T-79032 Subdivision proposal for 6 single family homes plus 1 block for future development.

LOCATION
Part of S/D Lot 2, Conc. 8, W.G.R., Riverview, Twp. of North Dumfries.

E.S.P.A. 61 to N and W of W½ of subject lands (Blk. A)

SIZE 3.88 ha.

☐ INCLUDES ALL OR PART OF E.S.P.A.
☒ ADJACENT TO E.S.P.A.

OWNER
Grandore Holdings

CONSULTANT(S)
Marshall, Macklin, Monaghan Ltd.

ACTION

DATES of E.E.A.C. INVOLVEMENT

None	

ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO REGIONAL OFFICIAL POLICIES PLAN

☐ PREPARED
☐ WAIVED
☐ NOT APPLICABLE

SUMMARY

The W. half of the property, originally proposed for future development, abutted E.S.P.A. #61 on the N. and W. sides. Due to Regional concerns that this Block A would be landlocked by the proposed development, an alternative was agreed upon to sever Block A as lot extensions to abutting owners to the S. (Lots 15, 17 - 23). The proximity to the E.S.P.A. was identified by Regional Planning staff, but no concerns were raised.

Both M.N.R. and G.R.C.A. expressed concerns about the remainder of the development due to the hazard land status of portions of all 6 proposed lots. They eventually recommended Draft Approval of 5 lots subject to conditions relating to hazard lands.

APPENDIX C

APPLICATIONS FOR LAND SEVERANCES WHICH WERE POSSIBLY IN OR CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS, JANUARY 197 - JULY 1981

E.S.P.A.	APPLICATION NO./YEAR	NOTES
1	25/76	Refused
5	298/76	Refused
6	74/79	Refused
10	299/76	A.F.M. Wilson - refused
10	42/77	Beynon & Dietz - lot extension approved
10	43/77	Beynon & Dietz - lot extension approved
10	134/77	A.F.M. Wilson - conveyance to Sunfish Lake Property Owner's Assoc.. Approved.
10	135/77	A.F.M. Wilson - conveyance of property. Approved.
10	136/77	A.F.M. Wilson - lot for construction of house. Refused.
10	245/78	A.F.M. Wilson - lot extension to construct house on retained land; approved.
10	105/81	Brodie - lot extension approved.
22	101/81	293486 Ontario Limited (Cambridge Country Manor) Creation of lot approved with conditions.
37	263/80	Forwell Limited - approved.
40	3/76	Refused.
41	453/76	Approved.

E.S.P.A.	APPLICATION NO./YEAR	NOTES
41	200/77	Refused
41	235/80	Refused
41	312/80	Refused
52	156/78	Refused
52	?	Proposed severance for Part Plan 67R-519. Site inspection by Region suggested if recommendations followed, Twp. could waive need for E.I.S.
53	313/76	Approved.
53	149/78	Refused.
53	312/78	Refused.
57	45/81	James Turner & David Brotherston - Deferred
60	194/76	Lot approved for retiring farmer or intra-family use.
66	373/76	Residential lot - Approved.
67	193/76	Lot approved for retiring farmer or intra-family use.
67	363/78	George Kersell - approved See Activity Record form.
67	175/79	Residential lot - Approved.
67	176/79	Residential lot - Approved.
67	347/79	Refused.

APPENDIX D

PARTIAL LIST OF
APPLICATIONS FOR VARIANCES,
IN AND CONTIGUOUS TO
ENVIRONMENTALLY SENSITIVE POLICY AREAS,
JANUARY 1976 - JULY 1981

E.S.P.A.	APPLICATION NO./YEAR	NOTES
6	A-20-78	To construct shed as necessary use. See Activity Record form.
10	A-22-77	A.F.M. Wilson - approved.
10	A-23-77	A.F.M. Wilson - approved.
19	A-83-80	Mrs. Haack. To construct (house? or) farm building and keep horses. Deferred due to Regional comments relating to E.S.P.A. Almost wholly within E.S.P.A.
19	A-20-81	Sugarbush Holdings. To replace single family house outside E.S.P.A. Subject property partly within E.S.P.A. Approved with condition. May require permit from G.R.C.A.
22	?	293486 Ont. Ltd.. To expand Cambridge Country Manor. Subject property partly within E.S.P.A.
55	A- 7-78	Proposed addition to dwelling adjacent to E.S.P.A.. Region requested site plan approval.

APPENDIX E

PARTIAL LIST OF APPLICATIONS FOR PERMITS FOR FILL, CONSTRUCTION AND ALTERATIONS TO WATERWAYS (ONT. REG. 356/74), IN OR CONTIGUOUS TO ENVIRONMENTALLY SENSITIVE POLICY AREAS,

JANUARY 1976 - JULY 1981

E.S.P.A.	APPLICATION NO./YEAR	NOTES
10	78/77	Mr. A. Vandepot. Contiguous property.
17	138/78	Tamarack Country Club. clean out pond.
17	139/78	Tamarack Country Club. Fill for parking lot.
17	280/80	Granted re: Mapleview Subdivision 30T-80019.
32	101/76	Doon Manor Developments Ltd.
32	137/77	Rev. S.D. Gibson. Fill for parking lot and construction of church.
32	87/78	Major Holdings & Developments Ltd.. To construct berms for storm water management detention area.
32	97/79	Doon Manor Developments Ltd.
32	147/79	Doon manor Developments Ltd.
32	?	Major Holdings & Developments Ltd.. re: Old Carriage Dr., Subdivision 30T-80028. To ensure a cut-fill balance to the floodplain.
36	167/76	John Schropp Builders Ltd.. Granted for fill to change floodline, construct single family dwellings into slope on 3 lots.
36	220/78	Max Waschnigg. Refused Re: 84 unit condominium. Possible impact on E.S.P.A. among many objections from Region.
37	May 1977	Wm. C. Roedding. Granted re: construction of house outside E.S.P.A.. Region cautioned that tile bed should be away from E.S.P.A.

E.S.P.A.	APPLICATION NO./YEAR	NOTES
37	165/77	Wm. C. Roedding. To construct pond in E.S.P.A.. Refused due to E.S.P.A.
39	94/78	Mr. R. Piraino (subsequently Mr. Goldbeck). To construct home within E.S.P.A.. Refused due to E.S.P.A.
40	96/79	Lars Skjaveland. To construct home on hill with driveway through swampy area. Region commented that proximity to E.S.P.A. risks contamination of E.S.P.A. from septic tank.
41	194/76	David Southall (owners: Cyril and Rose Horsfall). To purchase lot and construct house. Granted.
41	215/76	Proposed multi-purpose building for equipment storage, repairs and recreational activities within E.S.P.A. Region suggested alternative sites outside E.S.P.A.
41	216/76	Proposed addition to house outside E.S.P.A.
41	217/76	Proposed horse barn outside E.S.P.A. Region desired information re: impact of horses on E.S.P.A.
41	114/79	Twp. of North Dumfries. Granted to replace bridge with twin culverts.
41	68/80	K. Ostovar. Granted re: Subdivision 30T-80011 for storm water retention pond.
42	180/77	Dr. E. Reinhart. Granted retroactively for remedial work concerning previous unauthorized actions.

E.S.P.A.	APPLICATION NO./YEAR	NOTES
42	224/78	Dr. E. Reinhart. For recreational use of land. Region recommended refusal until management plan prepared.
59	184/78	Freure Homes Ltd.. Granted re: Grandview Hills Subdivision 30T-77037, to rehabilitate swamp.
61	111/78	Not in or abutting E.S.P.A. Creek originates in E.S.P.A. to west of property. Proposal to divert creek from Taylor's Lake (Beake Pond), across subject property, to Grand River. Regional concern that impact on E.S.P.A. undetermined.
68	141/71	Twp. of North Dumfries. Granted to fill 1/3 of pond to allow straightening of Cheese Factory Rd. Need for E.I.S. considered, determined not to be needed when hydrological assessment showed pond not related to E.S.P.A.
69	103/79	Mr. Fernando Botelho. Applied post-construction of fish pond located in source of some creeks feeding into E.S.P.A.